

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**Form 10-Q**

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the quarterly period ended March 31, 2022

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**  
For the transition period from \_\_\_\_\_ to \_\_\_\_\_  
Commission File Number 001-35066

**IMAX Corporation**

*(Exact name of registrant as specified in its charter)*

**Canada**  
*(State or other jurisdiction of  
incorporation or organization)*

**2525 Speakman Drive,  
Mississauga, Ontario, Canada L5K 1B1  
(905) 403-6500**

**98-0140269**  
*(I.R.S. Employer  
Identification Number)*

**902 Broadway, Floor 20  
New York, New York, USA 10010  
(212) 821-0100**

*(Address of principal executive offices, zip code, telephone numbers)*

**Securities registered pursuant to Section 12(b) of the Act:**

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Shares, no par value	IMAX	The New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

<u>Class</u>	<u>Outstanding as of March 31, 2022</u>
Common Shares, no par value	58,750,922

IMAX CORPORATION

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IMAX CORPORATION

PART I. FINANCIAL INFORMATION

Item 1. *Financial Statements*

The following unaudited Condensed Consolidated Financial Statements are filed as part of this Report:

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**IMAX CORPORATION**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(In thousands of U.S. Dollars, except share amounts)  
(Unaudited)

	March 31, 2022	December 31, 2021
<b>Assets</b>		
Cash and cash equivalents	\$ 162,300	\$ 189,711
Accounts receivable, net of allowance for credit losses	110,478	110,050
Financing receivables, net of allowance for credit losses	131,510	141,049
Variable consideration receivables, net of allowance for credit losses	44,032	44,218
Inventories	27,332	26,924
Prepaid expenses	13,628	11,802
Film assets, net of accumulated amortization	5,518	4,241
Property, plant and equipment, net of accumulated depreciation	258,971	260,353
Investment in equity securities	1,092	1,087
Other assets	22,115	17,799
Deferred income tax assets, net of valuation allowance	13,935	13,906
Goodwill	39,027	39,027
Other intangible assets, net of accumulated amortization	22,110	23,080
<b>Total assets</b>	<b>\$ 852,048</b>	<b>\$ 883,247</b>
<b>Liabilities</b>		
Accounts payable	\$ 18,220	\$ 15,943
Accrued and other liabilities	96,551	111,896
Deferred revenue	80,463	81,281
Revolving credit facility borrowings, net of unamortized debt issuance costs	1,080	2,472
Convertible notes, net of unamortized discounts and debt issuance costs	224,010	223,641
Deferred income tax liabilities	17,642	17,642
<b>Total liabilities</b>	<b>437,966</b>	<b>452,875</b>
<b>Commitments and contingencies</b> (see Note 8)		
<b>Non-controlling interests</b>	<b>761</b>	<b>758</b>
<b>Shareholders' equity</b>		
Capital stock common shares — no par value. Authorized — unlimited number.		
58,750,922 issued and outstanding (December 31, 2021 — 58,653,642 issued and outstanding)	415,362	409,979
Other equity	167,912	174,620
Statutory surplus reserve	3,932	3,932
Accumulated deficit	(251,194)	(234,975)
Accumulated other comprehensive income	3,228	2,527
<b>Total shareholders' equity attributable to common shareholders</b>	<b>339,240</b>	<b>356,083</b>
Non-controlling interests	74,081	73,531
<b>Total shareholders' equity</b>	<b>413,321</b>	<b>429,614</b>
<b>Total liabilities and shareholders' equity</b>	<b>\$ 852,048</b>	<b>\$ 883,247</b>

*(See the accompanying notes, which are an integral part of these Condensed Consolidated Financial Statements.)*

**IMAX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(In thousands of U.S. Dollars, except per share amounts)  
(Unaudited)

	Three Months Ended March 31,	
	2022	2021
<b>Revenues</b>		
Technology sales	\$ 8,976	\$ 6,175
Image enhancement and maintenance services	36,094	21,615
Technology rentals	12,661	8,359
Finance income	2,305	2,605
	<b>60,036</b>	<b>38,754</b>
<b>Costs and expenses applicable to revenues</b>		
Technology sales	5,985	5,053
Image enhancement and maintenance services	15,743	9,764
Technology rentals	6,537	6,656
	<b>28,265</b>	<b>21,473</b>
<b>Gross margin</b>	<b>31,771</b>	<b>17,281</b>
Selling, general and administrative expenses	30,181	25,209
Research and development	1,196	1,471
Amortization of intangible assets	1,197	1,141
Credit loss expense, net	7,229	305
<b>Loss from operations</b>	<b>(8,032)</b>	<b>(10,845)</b>
Realized and unrealized investment gains	34	5,248
Retirement benefits non-service expense	(139)	(114)
Interest income	502	583
Interest expense	(1,705)	(2,304)
<b>Loss before taxes</b>	<b>(9,340)</b>	<b>(7,432)</b>
Income tax expense	(2,610)	(3,068)
<b>Net loss</b>	<b>(11,950)</b>	<b>(10,500)</b>
Less: Net income attributable to non-controlling interests	(1,659)	(4,340)
<b>Net loss attributable to common shareholders</b>	<b>\$ (13,609)</b>	<b>\$ (14,840)</b>
<b>Net loss per share attributable to common shareholders - basic and diluted:</b>		
Net loss per share — basic and diluted	\$ (0.23)	\$ (0.25)

*(See the accompanying notes, which are an integral part of these Condensed Consolidated Financial Statements.)*

**IMAX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
*(In thousands of U.S. Dollars)*  
*(Unaudited)*

	Three Months Ended	
	March 31,	
	2022	2021
<b>Net loss</b>	<b>\$ (11,950)</b>	<b>\$ (10,500)</b>
<b>Other comprehensive income (loss), before tax</b>		
Unrealized net gain from cash flow hedging instruments	315	295
Realized net loss (gain) from cash flow hedging instruments	29	(231)
Reclassification of unrealized gain from ineffective cash flow hedging instruments	—	(22)
Foreign currency translation adjustments	580	(2,166)
Defined benefit and postretirement benefit plans	46	48
<b>Total other comprehensive income (loss), before tax</b>	<b>970</b>	<b>(2,076)</b>
Income tax expense related to other comprehensive income (loss)	(102)	(24)
Other comprehensive income (loss), net of tax	868	(2,100)
<b>Comprehensive loss</b>	<b>(11,082)</b>	<b>(12,600)</b>
Comprehensive income attributable to non-controlling interests	(1,826)	(3,687)
<b>Comprehensive loss attributable to common shareholders</b>	<b>\$ (12,908)</b>	<b>\$ (16,287)</b>

*(See the accompanying notes, which are an integral part of these Condensed Consolidated Financial Statements.)*

**IMAX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands of U.S. Dollars)  
(Unaudited)

	Three Months Ended	
	March 31,	
	2022	2021
<b>Operating Activities</b>		
Net loss	\$ (11,950)	\$ (10,500)
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation and amortization	12,741	12,678
Amortization of deferred financing costs	1,023	308
Credit loss expense, net	7,229	305
Write-downs	381	213
Deferred income tax (benefit) expense	(109)	158
Share-based and other non-cash compensation	6,189	5,421
Unrealized foreign currency exchange loss	58	113
Realized and unrealized investment gains	(34)	(5,248)
Changes in assets and liabilities:		
Accounts receivable	(2,654)	(13,744)
Inventories	(534)	437
Film assets	(5,107)	(2,213)
Deferred revenue	(830)	5,276
Changes in other operating assets and liabilities	(10,186)	(4,155)
<b>Net cash used in operating activities</b>	<b>(3,783)</b>	<b>(10,951)</b>
<b>Investing Activities</b>		
Purchase of property, plant and equipment	(728)	(466)
Investment in equipment for joint revenue sharing arrangements	(4,587)	(1,540)
Interest in film classified as a financial instrument	(4,731)	—
Acquisition of other intangible assets	(551)	(1,507)
Proceeds from sale of equity securities	—	17,769
<b>Net cash (used in) provided by investing activities</b>	<b>(10,597)</b>	<b>14,256</b>
<b>Financing Activities</b>		
Proceeds from issuance of convertible notes, net	—	223,675
Purchase of capped calls related to convertible notes	—	(19,067)
Repayments of revolving credit facility borrowings	—	(255,000)
Credit facility amendment fees paid	(1,783)	(32)
Repurchase of common shares, IMAX Corporation	(6,272)	—
Repurchase of common shares, IMAX China	(1,844)	—
Taxes withheld and paid on employee stock awards vested	(3,136)	(3,045)
Common shares issued - stock options exercised	—	824
<b>Net cash used in financing activities</b>	<b>(13,035)</b>	<b>(52,645)</b>
Effects of exchange rate changes on cash and cash equivalents	4	(245)
<b>Decrease in cash and cash equivalents during period</b>	<b>(27,411)</b>	<b>(49,585)</b>
<b>Cash and cash equivalents, beginning of period</b>	<b>189,711</b>	<b>317,379</b>
<b>Cash and cash equivalents, end of period</b>	<b>\$ 162,300</b>	<b>\$ 267,794</b>

*(See the accompanying notes, which are an integral part of these Condensed Consolidated Financial Statements.)*

**IMAX CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
(In thousands of U.S. Dollars)  
(Unaudited)

	Three Months Ended	
	March 31,	
	2022	2021
<b>Adjustments to capital stock:</b>		
Balance, beginning of period	\$ 409,979	\$ 407,020
Employee stock options exercised, net of shares withheld for employee tax obligations	—	824
Grant date fair value of stock options exercised	—	253
Average carrying value of repurchased and retired common shares	(3,662)	—
Restricted share units vested	9,045	6,885
Balance, end of period	<u>415,362</u>	<u>414,982</u>
<b>Adjustments to other equity:</b>		
Balance, beginning of period	174,620	188,845
Amortization of share-based payment expense - stock options	231	391
Amortization of share-based payment expense - restricted share units	4,350	3,486
Amortization of share-based payment expense - performance stock units	1,854	1,087
Restricted share units vested	(12,600)	(10,318)
Grant date fair value of stock options exercised	—	(253)
Change in ownership interest related to IMAX China common share repurchases	(543)	—
Purchase of capped calls related to convertible notes	—	(19,067)
Balance, end of period	<u>167,912</u>	<u>164,171</u>
<b>Adjustments to statutory surplus reserve:</b>		
Balance, beginning of period	3,932	—
Balance, end of period	<u>3,932</u>	<u>—</u>
<b>Adjustments to accumulated deficit:</b>		
Balance, beginning of period	(234,975)	(202,849)
Net loss attributable to common shareholders	(13,609)	(14,840)
Common shares repurchased and retired	(2,610)	—
Balance, end of period	<u>(251,194)</u>	<u>(217,689)</u>
<b>Adjustments to accumulated other comprehensive income (loss):</b>		
Balance, beginning of period	2,527	988
Other comprehensive income (loss), net of tax	701	(1,447)
Balance, end of period	<u>3,228</u>	<u>(459)</u>
<b>Adjustments to non-controlling interests:</b>		
Balance, beginning of period	73,531	70,004
Net income attributable to non-controlling interests	1,656	4,349
Other comprehensive income (loss), net of tax	167	(653)
Share-based compensation attributable to non-controlling interests	28	(3)
Change in ownership interest related to IMAX China common share repurchases	(1,301)	—
Balance, end of period	<u>74,081</u>	<u>73,697</u>
<b>Total Shareholders' Equity</b>	<b><u>\$ 413,321</u></b>	<b><u>\$ 434,702</u></b>

*(See the accompanying notes, which are an integral part of these Condensed Consolidated Financial Statements.)*



**IMAX CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
*(Tabular amounts in thousands of U.S. Dollars, unless otherwise stated)*  
*(Unaudited)*

**1. Basis of Presentation**

*Accounting Principles*

IMAX Corporation, together with its consolidated subsidiaries (the “Company”), prepares its financial statements in accordance with United States Generally Accepted Accounting Principles (“U.S. GAAP”) and pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been condensed or omitted from this report, as is permitted by such rules and regulations. In the Company’s opinion, the unaudited Condensed Consolidated Financial Statements reflect all adjustments of a normal recurring nature that are necessary for a fair statement of the results for the interim periods presented. The Condensed Consolidated Balance Sheet at December 31, 2021 was derived from the Company’s audited annual Consolidated Financial Statements, but does not contain all of the footnote disclosures included in the annual financial statements. The interim results presented in the Company’s Condensed Consolidated Statements of Operations are not necessarily indicative of results for a full year.

These Condensed Consolidated Financial Statements should be read in conjunction with the audited Consolidated Financial Statements included in the Company’s 2021 Annual Report on Form 10-K (the “2021 Form 10-K”), which should be consulted for a summary of the significant accounting policies utilized by the Company. The Condensed Consolidated Financial Statements are prepared following the same accounting policies disclosed in the 2021 Form 10-K.

*Revision of prior period amounts and other reclassifications*

In the Condensed Consolidated Statements of Shareholders’ Equity, the Company revised the March 31, 2021 balances of Total Shareholders’ Equity Attributable to Common Shareholders and Non-Controlling Interests. The revisions were principally made to properly reflect changes in the Company’s ownership interest in IMAX China Holding, Inc. (“IMAX China”) as a result of common share repurchases made by IMAX China and the amortization of share-based compensation related to IMAX China. The revisions resulted in a reclassification of \$8.5 million between the balances of Other Equity and Non-Controlling Interests as of March 31, 2021. There is no change in Total Shareholders’ Equity as a result of the revisions. (See Note 3(a) of Notes to Consolidated Financial Statements in Part II, Item 8 of the Company’s 2021 Form 10-K).

*Principles of Consolidation*

These Condensed Consolidated Financial Statements include the accounts of the Company together with its consolidated subsidiaries, except for subsidiaries which have been identified as variable interest entities (“VIEs”) where the Company is not the primary beneficiary. All intercompany accounts and transactions have been eliminated. The Company has evaluated its various variable interests to determine whether they are VIEs as required by U.S. GAAP.

The Company has interests in ten film production companies, which have been identified as VIEs. The Company is the primary beneficiary of and consolidates five of these entities as it has the power to direct the activities that most significantly impact the economic performance of the VIE, and it has the obligation to absorb losses or the right to receive benefits from the respective VIE that could potentially be significant. The majority of the assets relating to these production companies are held by the IMAX Original Film Fund (the “Original Film Fund”) as described in Note 17(b). The Company does not consolidate the other five film production companies because it does not have the power to direct their activities and it does not have the obligation to absorb the majority of the expected losses or the right to receive expected residual returns. The Company uses the equity method of accounting for these entities, which are not material to the Company’s Condensed Consolidated Financial Statements. A loss in the value of an equity method investment that is other than temporary is recognized as a charge in the Condensed Consolidated Statement of Operations.

As of March 31, 2022, total assets and liabilities of the Company’s consolidated VIEs are as follows:

<i>(In thousands of U.S. Dollars)</i>	<b>March 31, 2022</b>	<b>December 31, 2021</b>
Total assets	\$ 1,581	\$ 1,576
Total liabilities	\$ 257	\$ 259

## *Estimates and Assumptions*

In preparing the Company's Condensed Consolidated Financial Statements, management makes judgments in applying various accounting policies. The areas of policy judgment are consistent with those reported in Note 3(c) of the Company's audited Consolidated Financial Statements included in its 2021 Form 10-K. In addition, management makes assumptions about the Company's future operating results and cash flows in deriving critical accounting estimates used in preparing the Condensed Consolidated Financial Statements. The significant estimates made by management include, but are not limited to: (i) the allocation of the transaction price in an IMAX Theater System arrangement to distinct performance obligations; (ii) the amount of variable consideration to be earned on sales of IMAX Theater Systems based on projections of future box office performance; (iii) expected credit losses on accounts receivable, financing receivables, and variable consideration receivables; (iv) provisions for the write-down of excess and obsolete inventory; (v) the fair values of the reporting units used in assessing the recoverability of goodwill; (vi) the cash flow projections used in testing the recoverability of long-lived assets such as the theater system equipment supporting joint revenue sharing arrangements; (vii) the economic lives of the theater system equipment supporting joint revenue sharing arrangements; (viii) the useful lives of intangible assets; (ix) the ultimate revenue forecasts used to test the recoverability of film assets; (x) the discount rates used to determine the present value of financing receivables and lease liabilities, as well as to determine the fair values of the Company's reporting units for the purpose of assessing the recoverability of goodwill; (xi) pension plan assumptions; (xii) estimates related to the fair value and projected vesting of share-based payment awards; (xiii) the valuation of deferred income tax assets; and (xiv) reserves related to uncertain tax positions.

The impact of the COVID-19 pandemic is complex and continuously evolving, resulting in significant disruption to the Company's business and the global economy, as described in Note 2. Although management is encouraged by the broad reopening of the IMAX theater network, the continued progress towards the resumption of normal theater operations, normal film release schedules, and recent box office results, there continues to be risk and uncertainty relating to the judgments, assumptions, and estimates used by management in preparing the Company's Condensed Consolidated Financial Statements.

In response to the ongoing conflict between Russia and Ukraine, Canada, the United States, and other countries in which the Company operates have imposed broad sanctions and other restrictive actions against governmental and other entities in Russia, which in turn have and may continue to have an adverse impact on the Company's business and results of operations in affected regions. Additionally, given the global nature of the Company's operations, any protracted conflict or the broader macroeconomic impact of the Russia-Ukraine conflict and sanctions imposed on Russia could have an adverse impact on the Company's business, results of operations, and financial condition. As of March 31, 2022, the current IMAX network includes 54 theaters in Russia, 9 theaters in Ukraine, and 1 theater in Belarus, and the Company's backlog includes 14 theaters in Russia, 1 theater in Ukraine, and 7 theaters in Belarus with a total value of \$25.6 million. As a result of the ongoing conflict between Russia and Ukraine, there is risk and uncertainty relating to the judgments, assumptions, and estimates used by management in preparing the Company's Condensed Consolidated Financial Statements, including estimates related to expected credit losses on accounts receivable, financing receivables and variable consideration receivables, as discussed in Note 4. In the first quarter of 2022, the Company recorded provisions for potential credit losses against its receivables in Russia due to uncertainties associated with the ongoing conflict. These receivables relate to existing sale agreements. The Company is not party to any joint revenue sharing arrangements in these countries. In addition, exhibitors in Russia, Ukraine, and Belarus were placed on nonaccrual status for maintenance revenue and finance income in the first quarter of 2022. The Company continues to monitor the evolving impacts of this conflict and its effects on the global economy and the Company.

## **2. Impact of COVID-19 Pandemic**

The impact of the COVID-19 pandemic is complex and continuously evolving, resulting in significant disruption to the Company's business and the global economy. At various points during the pandemic, authorities around the world imposed measures intended to control the spread of COVID-19, including stay-at-home orders and restrictions on large public gatherings, which caused movie theaters in countries around the world to temporarily close, including the IMAX theaters in those countries. As a result of these theater closures, movie studios postponed the theatrical release of most films originally scheduled for release in 2020 and early 2021, including many of the films scheduled to be shown in IMAX theaters, while several other films were released directly or concurrently to streaming platforms. Beginning in the third quarter of 2020, stay-at-home orders and capacity restrictions were lifted in many key markets and movie theaters throughout the IMAX network gradually reopened. However, following the emergence of the Omicron variant and the rise of COVID-19 cases in China in the first quarter of 2022, the Chinese government reinstated capacity restrictions and safety protocols on large public gatherings, leading to the temporary closure of theaters in several cities. As of April 26, 2022, approximately 65% of the theaters in Greater China were open at various capacities, up from 52% as of March 31, 2022.

The impact of the COVID-19 pandemic on the Company's business and financial results will continue to depend on numerous evolving factors that cannot be accurately predicted and that will vary by jurisdiction and market, including the duration and scope of the pandemic, the emergence of new and the spread of existing variants of the virus, the progress made on administering vaccines and developing treatments and the effectiveness of such vaccines and treatments, the continuing impact of the pandemic on global economic conditions and ongoing government responses to the pandemic, which could lead to further theater closures, theater capacity restrictions and/or delays in the release of films.

### **3. Recently Issued Accounting Standards**

In March 2020, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2020-04, "Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting" ("ASU 2020-04"). The purpose of ASU 2020-04 is to provide optional expedients and exceptions for applying U.S. GAAP to contracts, hedging relationships, and other transactions affected by reference rate reform if certain criteria are met. ASU 2020-04 is effective for all entities from the beginning of an interim period that includes the issuance date of the ASU. An entity may elect to apply ASU 2020-04 prospectively through December 31, 2022. As of March 31, 2022, the Company is not party to any contracts that reference the London Interbank Offered Rate (LIBOR). Accordingly, the Company does not expect ASU 2020-04 to have a material effect on its Condensed Consolidated Financial Statements.

In November 2021, the FASB issued ASU No. 2021-10, "2021-10: Government Assistance (Topic 832): Disclosures by Business Entities about Government Assistance" ("ASU 2021-10"). ASU 2021-10 requires annual disclosures about transactions with a government that are accounted for by applying a grant or contribution accounting model by analogy. ASU 2021-10 is effective for annual periods beginning after December 15, 2021. Early adoption is permitted. The Company will adopt ASU 2021-10 for the year ending December 31, 2022 and will provide the required disclosures, if material.

In March 2022, the FASB issued ASU No. 2022-02, "2022-02: Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures" ("ASU 2022-02"). ASU 2022-02 requires that an entity disclose current-period gross write-offs by year of origination for financing receivables and net investments in leases. ASU 2022-02 is effective for annual periods beginning after December 15, 2022, including interim periods within those periods. Early adoption is permitted. The Company will adopt ASU 2022-02 in the first quarter of 2023 and will provide the required disclosures, if material.

The Company considers the applicability and impact of all FASB ASUs that are recently issued, but not yet effective. ASUs that are not noted above were assessed and determined to be not applicable or not significant to the Company's Condensed Consolidated Financial Statements for the period ended March 31, 2022.

### **4. Receivables**

The ability of the Company to collect its receivables is dependent on the viability and solvency of individual theater operators which is significantly influenced by consumer behavior and general economic conditions. Theater operators, or other customers, may experience financial difficulties that could result in their being unable to fulfill their payment obligations to the Company.

In order to mitigate the credit risk associated with its receivables, management performs an initial credit evaluation prior to entering into an arrangement with a customer and then regularly monitors the credit quality of each customer through an analysis of collections history and aging. This monitoring process includes meetings on at least a monthly basis to identify credit concerns and potential changes in credit quality classification. A customer may improve their credit quality classification once a substantial payment is made on an overdue balance or when the customer has agreed to a payment plan and payments have commenced in accordance with that plan. Changes in credit quality classification are dependent upon management approval. The Company's internal credit quality classifications for theater operators are as follows:

- **Good Standing** — The theater operator continues to be in good standing as payments and reporting are received on a regular basis.
- **Credit Watch** — The theater operator has demonstrated a delay in payments, but continues to be in active communication with the Company. Theater operators placed on Credit Watch are subject to enhanced monitoring. In addition, depending on the size of the outstanding balance, length of time in arrears, and other factors, future transactions may need to be approved by management. These receivables are in better condition than those in the Pre-Approved Transactions Only category, but are not in as good condition as the receivables in the Good Standing category.

- **Pre-Approved Transactions Only** — The theater operator has demonstrated a delay in payments with little or no communication with the Company. All services and shipments to the theater operator must be reviewed and approved by management. These receivables are in better condition than those in the All Transactions Suspended category, but are not in as good condition as the receivables in the Credit Watch category. In certain situations, a theater operator may be placed on nonaccrual status and all revenue recognition related to the theater may be suspended, including the accretion of Finance Income for Financing Receivables.
- **All Transactions Suspended** — The theater operator is severely delinquent, non-responsive or not negotiating in good faith with the Company. Once a theater operator is classified within the All Transactions Suspended category, the theater is placed on nonaccrual status and all revenue recognitions related to the theater are suspended, including the accretion of Finance Income for Financing Receivables.

During the period when the accretion of Finance Income is suspended for Financing Receivables, any payments received from a customer are applied against the outstanding balance owed. If payments are sufficient to cover any unreserved receivables, a reversal of the provision is recorded to the extent of the residual cash received. Once the collectability issues are resolved and the customer has returned to being in good standing, the Company will resume recognition of Finance Income.

When a customer's aging exceeds 90 days, the Company's policy is to perform an enhanced review to assess collectability of the theater's past due accounts. The over 90 days past due category may be an indicator of potential impairment as up to 90 days outstanding is considered to be a reasonable time to resolve any issues.

The Company develops an estimate of expected credit losses by class of receivable and customer type through a calculation that utilizes historical loss rates which are then adjusted for specific receivables that are judged to have a higher-than-normal risk profile after considering management's internal credit quality classifications. Additional credit loss provisions are also recorded taking into account macro-economic and industry risk factors. The write-off of any billed receivable balance requires the approval of management.

Management's judgments regarding expected credit losses are based on the facts available to management and involve estimates about the future. Due to the unprecedented nature of the COVID-19 pandemic, its effect on the Company's customers and their ability to meet their financial obligations to the Company is difficult to predict. As a result, the Company's judgments and associated estimates of credit losses may ultimately prove, with the benefit of hindsight, to be incorrect (see Note 2).

#### *Accounts Receivable*

Accounts receivable principally includes amounts currently due to the Company under theater sale and sales-type lease arrangements, contingent fees owed by theater operators as a result of box office performance, and fees for theater maintenance services. Accounts receivable also includes amounts due to the Company from movie studios and other content creators principally for digitally remastering films into IMAX formats, as well as for film distribution and post-production services.

The following tables summarize the activity in the allowance for credit losses related to Accounts Receivable for the three months ended March 31, 2022 and 2021:

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended March 31, 2022			
	Theater Operators	Studios	Other	Total
Beginning balance	\$ 8,867	\$ 1,994	\$ 1,085	\$ 11,946
Current period provision, net	1,981	3	273	2,257
Write-offs	—	—	—	—
Foreign exchange	(17)	(2)	—	(19)
Ending balance	<u>\$ 10,831</u>	<u>\$ 1,995</u>	<u>\$ 1,358</u>	<u>\$ 14,184</u>

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended March 31, 2021			
	Theater Operators	Studios	Other	Total
Beginning balance	\$ 8,368	\$ 4,481	\$ 1,446	\$ 14,295
Current period provision (reversal), net	599	(499)	(249)	(149)
Write-offs	(170)	(149)	—	(319)
Foreign exchange	(14)	(62)	(9)	(85)
Ending balance	<u>\$ 8,783</u>	<u>\$ 3,771</u>	<u>\$ 1,188</u>	<u>\$ 13,742</u>

For the three months ended March 31, 2022, the Company's allowance for current expected credit losses related to Accounts Receivable increased by \$2.2 million principally due to reserves established against its receivables in Russia due to uncertainties associated with the ongoing Russia-Ukraine conflict, partially offset by the reversal of provisions associated with the COVID-19 pandemic as the outlook for the theatrical exhibition industry in Domestic and Rest of World markets continues to improve.

For the three months ended March 31, 2021, the Company's allowance for current expected credit losses related to Accounts Receivable decreased by \$0.6 million principally as a result of the write-off of certain receivable balances (\$0.3 million) and a net provision reversal (\$0.1 million) due to better than expected collection experience with respect to foreign movie studios, partially offset by an increase in the provision associated with a higher level of accounts receivable in the period.

#### *Financing Receivables*

Financing receivables are due from theater operators and consist of the Company's net investment in sales-type leases and receivables associated with financed sales of IMAX Theater Systems. As of March 31, 2022 and December 31, 2021, financing receivables consist of the following:

<i>(In thousands of U.S. Dollars)</i>	March 31, 2022	December 31, 2021
<b>Net investment in leases</b>		
Gross minimum payments due under sales-type leases	\$ 29,259	\$ 29,953
Unearned finance income	(703)	(763)
Present value of minimum payments due under sales-type leases	28,556	29,190
Allowance for credit losses	(706)	(798)
Net investment in leases	<u>27,850</u>	<u>28,392</u>
<b>Financed sales receivables</b>		
Gross minimum payments due under financed sales	147,319	152,315
Unearned finance income	(32,524)	(34,244)
Present value of minimum payments due under financed sales	114,795	118,071
Allowance for credit losses	(11,135)	(5,414)
Net financed sales receivables	<u>103,660</u>	<u>112,657</u>
Total financing receivables	<u>\$ 131,510</u>	<u>\$ 141,049</u>
Net financed sales receivables due within one year	\$ 27,863	\$ 29,115
Net financed sales receivables due after one year	75,797	83,542
Total financed sales receivables	<u>\$ 103,660</u>	<u>\$ 112,657</u>

As of March 31, 2022 and December 31, 2021, the weighted-average remaining lease term and weighted-average interest rate associated with the Company's sales-type lease arrangements and financed sale receivables, as applicable, are as follows:

	March 31, 2022	December 31, 2021
<b>Weighted-average remaining lease term (in years)</b>		
Sales-type lease arrangements	9.4	9.6
<b>Weighted-average interest rate</b>		
Sales-type lease arrangements	6.60 %	6.56 %
Financed sales receivables	8.80 %	8.79 %

The tables below provide information on the Company's net investment in leases by credit quality indicator as of March 31, 2022 and December 31, 2021. The amounts disclosed for each credit quality classification are determined on a customer-by-customer basis and include both billed and unbilled amounts.

*(In thousands of U.S. Dollars)*

As of March 31, 2022	By Origination Year						Total
	2022	2021	2020	2019	2018	Prior	
<b>Net investment in leases:</b>							
Credit quality classification:							
In good standing	\$ —	\$ 11,040	\$ 3,815	\$ 7,989	\$ 2,429	\$ 2,412	\$ 27,685
Credit Watch	—	—	—	—	—	—	—
Pre-approved transactions	—	—	—	—	—	—	—
Transactions suspended	—	—	—	—	—	871	871
<b>Total net investment in leases</b>	<u>\$ —</u>	<u>\$ 11,040</u>	<u>\$ 3,815</u>	<u>\$ 7,989</u>	<u>\$ 2,429</u>	<u>\$ 3,283</u>	<u>\$ 28,556</u>

*(In thousands of U.S. Dollars)*

As of December 31, 2021	By Origination Year						Total
	2021	2020	2019	2018	2017	Prior	
<b>Net investment in leases:</b>							
Credit quality classification:							
In good standing	\$ 11,030	\$ 3,991	\$ 7,973	\$ 2,574	\$ 823	\$ 1,928	\$ 28,319
Credit Watch	—	—	—	—	—	—	—
Pre-approved transactions	—	—	—	—	—	—	—
Transactions suspended	—	—	—	—	—	871	871
<b>Total net investment in leases</b>	<u>\$ 11,030</u>	<u>\$ 3,991</u>	<u>\$ 7,973</u>	<u>\$ 2,574</u>	<u>\$ 823</u>	<u>\$ 2,799</u>	<u>\$ 29,190</u>

The tables below provide information on the Company's financed sale receivables by credit quality indicator as of March 31, 2022 and December 31, 2021. The amounts disclosed for each credit quality classification are determined on a customer-by-customer basis and include both billed and unbilled amounts.

(In thousands of U.S. Dollars)

As of March 31, 2022	By Origination Year						Total
	2022	2021	2020	2019	2018	Prior	
<b>Financed sales receivables:</b>							
Credit quality classification:							
In good standing	\$ 1,383	\$ 11,956	\$ 8,011	\$ 8,949	\$ 12,187	\$ 49,247	\$ 91,733
Credit Watch	—	—	—	—	—	2,086	2,086
Pre-approved transactions	—	—	—	1,213	428	6,830	8,471
Transactions suspended	—	302	143	1,321	961	9,778	12,505
<b>Total financed sales receivables</b>	<b>\$ 1,383</b>	<b>\$ 12,258</b>	<b>\$ 8,154</b>	<b>\$ 11,483</b>	<b>\$ 13,576</b>	<b>\$ 67,941</b>	<b>\$ 114,795</b>

(In thousands of U.S. Dollars)

As of December 31, 2021	By Origination Year						Total
	2021	2020	2019	2018	2017	Prior	
<b>Financed sales receivables:</b>							
Credit quality classification:							
In good standing	\$ 12,520	\$ 8,251	\$ 10,593	\$ 13,278	\$ 12,615	\$ 47,950	\$ 105,207
Credit Watch	—	—	—	—	321	1,292	1,613
Pre-approved transactions	—	—	743	418	2,098	3,650	6,909
Transactions suspended	—	—	335	—	680	3,327	4,342
<b>Total financed sales receivables</b>	<b>\$ 12,520</b>	<b>\$ 8,251</b>	<b>\$ 11,671</b>	<b>\$ 13,696</b>	<b>\$ 15,714</b>	<b>\$ 56,219</b>	<b>\$ 118,071</b>

The balance of financed sale receivables classified within the Transactions Suspended category as of March 31, 2022 includes amounts due from exhibitors in Russia, Ukraine, and Belarus which were reclassified from other credit quality classifications in the first quarter of 2022 as a result of the ongoing Russia-Ukraine conflict.

The following tables provide an aging analysis for the Company's net investment in leases and financed sale receivables as of March 31, 2022 and December 31, 2021:

(In thousands of U.S. Dollars)	As of March 31, 2022							
	Accrued and Current	30-89 Days	90+ Days	Billed	Unbilled	Recorded Receivable	Allowance for Credit Losses	Net
Net investment in leases	\$ 248	\$ 364	\$ 1,112	\$ 1,724	\$ 26,832	\$ 28,556	\$ (706)	\$ 27,850
Financed sales receivables	1,256	2,438	6,842	10,536	104,259	114,795	(11,135)	103,660
<b>Total</b>	<b>\$ 1,504</b>	<b>\$ 2,802</b>	<b>\$ 7,954</b>	<b>\$ 12,260</b>	<b>\$ 131,091</b>	<b>\$ 143,351</b>	<b>\$ (11,841)</b>	<b>\$ 131,510</b>

(In thousands of U.S. Dollars)	As of December 31, 2021							
	Accrued and Current	30-89 Days	90+ Days	Billed	Unbilled	Recorded Receivable	Allowance for Credit Losses	Net
Net investment in leases	\$ 225	\$ 156	\$ 1,267	\$ 1,648	\$ 27,542	\$ 29,190	\$ (798)	\$ 28,392
Financed sales receivables	1,750	989	8,378	11,117	106,954	118,071	(5,414)	112,657
<b>Total</b>	<b>\$ 1,975</b>	<b>\$ 1,145</b>	<b>\$ 9,645</b>	<b>\$ 12,765</b>	<b>\$ 134,496</b>	<b>\$ 147,261</b>	<b>\$ (6,212)</b>	<b>\$ 141,049</b>

The following tables provide information about the Company's net investment in leases and financed sale receivables with billed amounts past due for which it continues to accrue finance income as of March 31, 2022 and December 31, 2021. The amounts disclosed for each credit quality classification are determined on a customer-by-customer basis and include both billed and unbilled amounts.

	As of March 31, 2022						
<i>(In thousands of U.S. Dollars)</i>	Accrued and Current	30-89 Days	90+ Days	Billed	Unbilled	Allowance for Credit Losses	Net
Net investment in leases	\$ 144	\$ 320	\$ 1,134	\$ 1,598	\$ 14,084	\$ (167)	\$ 15,515
Financed sales receivables	599	1,355	5,388	7,342	36,354	(976)	42,720
<b>Total</b>	<b>\$ 743</b>	<b>\$ 1,675</b>	<b>\$ 6,522</b>	<b>\$ 8,940</b>	<b>\$ 50,438</b>	<b>\$ (1,143)</b>	<b>\$ 58,235</b>

	As of December 31, 2021						
<i>(In thousands of U.S. Dollars)</i>	Accrued and Current	30-89 Days	90+ Days	Billed	Unbilled	Allowance for Credit Losses	Net
Net investment in leases	\$ 143	\$ 132	\$ 825	\$ 1,100	\$ 12,619	\$ (176)	\$ 13,543
Financed sales receivables	959	729	6,190	7,878	41,439	(1,413)	47,904
<b>Total</b>	<b>\$ 1,102</b>	<b>\$ 861</b>	<b>\$ 7,015</b>	<b>\$ 8,978</b>	<b>\$ 54,058</b>	<b>\$ (1,589)</b>	<b>\$ 61,447</b>

The following table provides information about the Company's net investment in leases and financed sale receivables that are on nonaccrual status as of March 31, 2022 and December 31, 2021:

	As of March 31, 2022			As of December 31, 2021		
<i>(In thousands of U.S. Dollars)</i>	Recorded Receivable	Allowance for Credit Losses	Net	Recorded Receivable	Allowance for Credit Losses	Net
Net investment in leases	\$ 871	\$ (304)	\$ 567	\$ 871	\$ (309)	\$ 562
Net financed sales receivables	18,290	(9,208)	9,082	8,642	(2,357)	6,285
<b>Total</b>	<b>\$ 19,161</b>	<b>\$ (9,512)</b>	<b>\$ 9,649</b>	<b>\$ 9,513</b>	<b>\$ (2,666)</b>	<b>\$ 6,847</b>

The balances of net investment in leases and financed sale receivables that are on nonaccrual status as of March 31, 2022 include amounts due from exhibitors in Russia, Ukraine, and Belarus which were placed on nonaccrual status in the first quarter of 2022 as a result of the ongoing Russia-Ukraine conflict.

For the three months ended March 31, 2022, the Company recognized less than \$0.1 million (2021 — less than \$0.1 million) in Finance Income related to the net investment in leases with billed amounts past due. For the three months ended March 31, 2022 and 2021, the Company did not recognize Finance Income related to the net investment in leases on nonaccrual status. For the three months ended March 31, 2022, the Company recognized \$0.7 million (2021 — \$1.2 million) in Finance Income related to the financed sale receivables with billed amounts past due. For the three months ended March 31, 2022, the Company recognized \$0.2 million (2021 — \$0.2 million) in Finance Income related to the financed sales receivables on nonaccrual status.



The following tables summarize the activity in the allowance for credit losses related to the Company's net investment in leases and financed sale receivables for the three months ended March 31, 2022 and 2021:

<i>(In thousands of U.S. Dollars)</i>	<b>Three Months Ended March 31, 2022</b>			
	<b>Net Investment</b>		<b>Financed</b>	
	<b>in Leases</b>		<b>Sales Receivables</b>	
Beginning balance	\$	798	\$	5,414
Current period (reversal) provision, net		(93)		5,708
Write-offs		—		—
Foreign exchange		1		13
Ending balance	\$	706	\$	11,135

<i>(In thousands of U.S. Dollars)</i>	<b>Three Months Ended March 31, 2021</b>			
	<b>Net Investment</b>		<b>Net Financed</b>	
	<b>in Leases</b>		<b>Sales Receivables</b>	
Beginning balance	\$	557	\$	7,274
Current period provision, net		27		227
Write-offs		—		—
Foreign exchange		(3)		(10)
Ending balance	\$	581	\$	7,491

For the three months ended March 31, 2022, the Company's allowance for current expected credit losses related to its net investment in leases and financed sale receivables increased by \$5.6 million principally due to reserves established against its receivables in Russia due to uncertainties associated with the ongoing Russia-Ukraine conflict, partially offset by the reversal of provisions associated with the COVID-19 pandemic as the outlook for the theatrical exhibition industry in Domestic and Rest of World markets continues to improve.

#### *Variable Consideration Receivables*

In sale arrangements, variable consideration may become due to the Company from theater operators if certain annual minimum box office receipt thresholds are exceeded. Such variable consideration is recorded as revenue in the period when the sale is recognized and adjusted in future periods based on actual results and changes in estimates. Variable consideration is only recognized to the extent the Company believes there is not a risk of significant revenue reversal.

The following table summarizes the activity in the allowance for credit losses related to Variable Consideration Receivables for the three months ended March 31, 2022 and 2021:

<i>(In thousands of U.S. Dollars)</i>	<b>Three Months Ended March 31,</b>			
	<b>2022</b>		<b>2021</b>	
	<b>Theater Operators</b>		<b>Theater Operators</b>	
Beginning balance	\$	1,082	\$	1,887
Current period (reversal) provision, net		(643)		200
Write-offs		—		—
Foreign exchange		—		1
Ending balance	\$	439	\$	2,088

For the three months ended March 31, 2022, the Company's allowance for current expected credit losses related to Variable Consideration Receivables decreased by \$0.6 million principally due to the reversal of provisions associated with the COVID-19 pandemic as the outlook for the theatrical exhibition industry in Domestic and Rest of World markets continues to improve.

## 5. Lease Arrangements

### (a) IMAX Corporation as a Lessee

The Company's operating lease arrangements principally involve office and warehouse space. Office equipment is generally purchased outright. Leases with an initial term of less than 12 months are not recorded on the Condensed Consolidated Balance Sheets and the related lease expense is recognized on a straight-line basis over the lease term. Most of the Company's leases include one or more options to renew, with renewal terms that can extend the lease term from one to five years or more. The Company has determined that it is reasonably certain that the renewal options on its warehouse leases will be exercised based on previous history, its current understanding of future business needs and its level of investment in leasehold improvements, among other factors. The incremental borrowing rate used in the calculation of the Company's lease liabilities is based on the location of each leased property. None of the Company's leases include options to purchase the leased property. The depreciable lives of right-of-use assets and related leasehold improvements are limited by the expected lease term. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants. The Company rents or subleases certain office space to third parties, which have a remaining term of less than 12 months and are not expected to be renewed.

For the three months ended March 31, 2022 and 2021, the components of lease expense recorded within Selling, General and Administrative expenses are as follows:

<i>(In thousands of U.S. Dollars)</i>	<b>Three Months Ended March 31,</b>	
	<b>2022</b>	<b>2021</b>
Operating lease cost <sup>(1)</sup>	\$ 160	\$ 172
Amortization of lease assets	693	748
Interest on lease liabilities	215	242
Total lease cost	<u>\$ 1,068</u>	<u>\$ 1,162</u>

(1) Includes short-term leases and variable lease costs, which are not significant for the three months ended March 31, 2022 and 2021.

For the three months ended March 31, 2022 and 2021, supplemental cash and non-cash information related to leases is as follows:

<i>(In thousands of U.S. Dollars)</i>	<b>Three Months Ended March 31,</b>	
	<b>2022</b>	<b>2021</b>
Cash paid for amounts included in the measurement of lease liabilities	\$ 945	\$ 956
Right-of-use assets obtained in exchange for lease obligations	\$ 217	\$ 198

As of March 31, 2022 and December 31, 2021, supplemental balance sheet information related to leases is as follows:

<i>(In thousands of U.S. Dollars)</i>	<b>Balance Sheet Classification</b>	<b>March 31,</b>	<b>December 31,</b>
		<b>2022</b>	<b>2021</b>
<b>Assets</b>	<b>Balance Sheet Classification</b>		
Right-of-use assets	Property, plant and equipment	\$ 11,650	\$ 12,132
<b>Liabilities</b>	<b>Balance Sheet Classification</b>		
Operating leases	Accrued and other liabilities	\$ 14,130	\$ 14,691

As of March 31, 2022 and December 31, 2021, the weighted-average remaining lease term and weighted-average interest rate associated with the Company's operating leases are as follows:

	March 31, 2022	December 31, 2021
Weighted-average remaining lease term (years)	6.8	7.0
Weighted-average discount rate	5.99 %	5.97 %

As of March 31, 2022, the maturities of the Company's operating lease liabilities are as follows:

*(In thousands of U.S. Dollars)*

2022 (nine months remaining)	\$	2,598
2023		2,461
2024		2,234
2025		2,084
2026		2,062
Thereafter		5,953
Total lease payments	\$	17,392
Less: interest expense		(3,262)
Present value of operating lease liabilities	\$	14,130

**(b) IMAX Corporation as a Lessor**

The Company provides IMAX Theater Systems to customers through long-term lease arrangements that for accounting purposes are classified as sales-type leases. Under these arrangements, in exchange for providing the IMAX Theater System, the Company earns fixed upfront and ongoing consideration. Certain arrangements that are legal sales are also classified as sales-type leases as certain clauses within the arrangements limit transfer of title or provide the Company with conditional rights to the system. The customer's rights under the Company's sales-type lease arrangements are described in Note 7(p) of the Company's audited Consolidated Financial Statements included in its 2021 Form 10-K. Under the Company's sales-type lease arrangements, the customer has the ability and the right to operate the hardware components or direct others to operate them in a manner determined by the customer. The Company's lease portfolio terms are typically non-cancellable for 10 to 20 years with renewal provisions from inception. The Company's sales-type lease arrangements do not contain a guarantee of residual value at the end of the lease term. The customer is required to pay for executory costs such as insurance and taxes and is required to pay the Company for maintenance and an extended warranty generally after the first year of the lease until the end of the lease term. The customer is responsible for obtaining insurance coverage for the IMAX Theater System commencing on the date specified in the arrangement's shipping terms and ending on the date the IMAX Theater System is returned to the Company.

The Company also provides IMAX Theater Systems to customers through joint revenue sharing arrangements. Under the traditional form of these arrangements, in exchange for providing the IMAX Theater System under a long-term lease, the Company earns rent based on a percentage of contingent box office receipts and, in some cases, concession revenues, rather than requiring the customer to pay a fixed upfront fee or annual minimum payments. Under certain other joint revenue sharing arrangements, known as hybrid arrangements, the customer is responsible for making fixed upfront payments prior to the delivery and installation of the IMAX Theater System. Under joint revenue sharing arrangements, the customer has the ability and the right to operate the hardware components or direct others to operate them in a manner determined by the customer. The Company's joint revenue sharing arrangements are typically non-cancellable for 10 years or longer with renewal provisions. Title to the IMAX Theater System under a joint revenue sharing arrangement generally does not transfer to the customer. The Company's joint revenue sharing arrangements do not contain a guarantee of residual value at the end of the lease term. The customer is required to pay for executory costs such as insurance and taxes and is required to pay the Company for maintenance and an extended warranty throughout the term. The customer is responsible for obtaining insurance coverage for the IMAX Theater System commencing on the date specified in the arrangement's shipping terms and ending on the date the IMAX Theater System is returned to the Company.

The following lease payments are expected to be received by the Company for its sales-type leases and joint revenue sharing arrangements in each of the next five years and thereafter following the March 31, 2022 balance sheet date:

<i>(In thousands of U.S. Dollars)</i>	Sales-Type Leases	Joint Revenue Sharing Arrangements
2022 (nine months remaining)	\$ 2,690	\$ 142
2023	3,182	128
2024	3,094	—
2025	2,940	—
2026	2,702	—
Thereafter	14,651	—
<b>Total</b>	<b>\$ 29,259</b>	<b>\$ 270</b>

(See Note 4 for additional information related to the net investment in leases related to the Company's sales-type lease arrangements.)

## 6. Inventories

As of March 31, 2022 and December 31, 2021, Inventories consist of the following:

<i>(In thousands of U.S. Dollars)</i>	March 31, 2022	December 31, 2021
Raw materials	\$ 21,026	\$ 20,551
Work-in-process	1,501	1,406
Finished goods	4,805	4,967
	<u>\$ 27,332</u>	<u>\$ 26,924</u>

As of March 31, 2022, Inventories include finished goods of \$2.1 million (December 31, 2021 — \$2.6 million) for which title had passed to the customer, but the criteria for revenue recognition were not met as of the balance sheet date.

During the three months ended March 31, 2022, the Company recognized write-downs of less than \$0.1 million for excess and obsolete inventory based on current estimates of net realizable value (2021 — \$0.1 million).

## 7. Debt

### (a) Revolving Credit Facility Borrowings, Net

As of March 31, 2022 and December 31, 2021, Revolving Credit Facility Borrowings, Net includes the following:

<i>(In thousands of U.S. Dollars)</i>	March 31, 2022	December 31, 2021
Credit Facility borrowings	\$ —	\$ —
Working Capital Facility borrowings	3,627	3,612
Unamortized debt issuance costs	(2,547)	(1,140)
Revolving Credit Facility Borrowings, net	<u>\$ 1,080</u>	<u>\$ 2,472</u>

### Credit Agreement

On March 25, 2022, the Company entered into a Sixth Amended and Restated Credit Agreement with Wells Fargo Bank, National Association, as agent, and a syndicate of lenders party thereto (the "Credit Agreement"), which extended the maturity date of the credit facility under the Credit Agreement (the "Credit Facility") from June 28, 2023 to March 25, 2027. The Company's obligations under the Credit Agreement are guaranteed by certain of the Company's subsidiaries (the "Guarantors"), and are secured by first-priority security interests in substantially all of the assets of the Company and the Guarantors.

The Credit Agreement maintains the Company's revolving borrowing capacity at \$300.0 million, and also contains an uncommitted accordion feature allowing the Company to further expand its borrowing capacity to \$440.0 million or greater, in the form of revolving loans and/or term loans under the incremental facility and subject to conditions set forth in the Credit Agreement.

Until the tenth business day after the delivery of the compliance certificate for the first fiscal quarter ending after the end of the "Designated Period" thereunder, loans under the Credit Facility will bear interest, at the Company's option, at (i) with respect to loans on which interest is payable by reference to the Term SOFR, Eurocurrency Rate or CDOR Rate, such rate plus a margin of 2.50%; or (ii) with respect to loans on which interest is payable by reference to the U.S. base rate or the Canadian prime rate, such rate plus a margin of 1.75%. The effective interest rate for the three months ended March 31, 2022 was 0.00% (2021 — 2.65%).

Following the end of the "Designated Period" thereunder, loans under the Credit Facility will bear interest, at the Company's option, at (i) Term SOFR, Eurocurrency Rate or CDOR Rate plus a margin ranging from 1.00% to 1.75% per annum; or (ii) the U.S. base rate or the Canadian prime rate plus a margin ranging from 0.25% to 1.00% per annum, in each case depending on the Company's total leverage ratio. In no event will Term SOFR, Eurocurrency Rate or CDOR Rate be less than 0.00% per annum.

The Credit Agreement requires that the Company maintain a maximum senior secured net leverage ratio of 3.25:1.00, which is tested on the last day of each fiscal quarter, commencing with the fiscal quarter ending June 30, 2022. The Credit Agreement also contains a \$75 million minimum liquidity covenant, which is measured at the end of each calendar month and will remain in effect solely during the Designated Period. In addition, the Credit Agreement contains customary affirmative and negative covenants, including covenants that limit indebtedness, liens, capital expenditures, asset sales, investments and restricted payments, in each case subject to negotiated exceptions and baskets. The Credit Agreement also contains customary representations, warranties and event of default provisions.

The Company incurred fees of approximately \$1.8 million in connection with the Credit Agreement, which are being amortized on a straight-line basis over the term of the Credit Agreement. During the three months ended March 31, 2022, the Company expensed \$0.4 million in unamortized deferred financing costs associated with lenders that are no longer parties to the Credit Agreement.

As of March 31, 2022, there were no outstanding borrowings under the Credit Facility and the Company did not have any letters of credit or advance payment guarantees outstanding under the Credit Facility. As of December 31, 2021, there were no amounts drawn under the previous credit facility, and the Company did not have any letters of credit or advance payment guarantees outstanding under the previous credit facility.

#### *Working Capital Facility*

On July 1, 2021, IMAX (Shanghai) Multimedia Technology Co., Ltd. ("IMAX Shanghai"), one of the Company's majority-owned subsidiaries in China, renewed its unsecured revolving facility for up to 200.0 million Chinese Renminbi ("RMB") (approximately \$31.5 million), including RMB 10.0 million (approximately \$1.6 million) for letters of guarantee, to fund ongoing working capital requirements (the "Working Capital Facility"). The Working Capital Facility expires in July 2022.

As of March 31, 2022, outstanding Working Capital Facility borrowings were RMB 23.0 million (\$3.6 million) and outstanding letters of guarantee were RMB 0.3 million (less than \$0.1 million). As of December 31, 2021, outstanding Working Capital Facility borrowings were RMB 23.0 million (\$3.6 million) and outstanding letters of guarantee were RMB 2.8 million (\$0.5 million).

As of March 31, 2022, the amount available for future borrowings under the Working Capital Facility was RMB 167.0 million (\$26.3 million) and the amount available for letters of guarantee was RMB 9.7 million (\$1.5 million). The amount available for future borrowings under the Working Capital Facility is not subject to a standby fee. The effective interest rate for the three months ended March 31, 2022 was 4.15% (2021 — 4.34%).

#### *Wells Fargo Foreign Exchange Facility*

Within the Credit Facility, the Company is able to purchase foreign currency forward contracts and/or other swap arrangements. As of March 31, 2022, the net unrealized gain on the Company's outstanding foreign currency forward contracts was \$0.4 million, representing the amount by which the fair value of these forward contracts exceeded their notional value (December 31, 2021 — \$0.1 million). As of March 31, 2022, the notional value of the Company's outstanding foreign currency forward contracts was \$23.6 million (December 31, 2021 — \$26.7 million).

#### *NBC Facility*

On October 28, 2019, the Company entered into a \$5.0 million facility with the National Bank of Canada (the "NBC Facility") fully insured by Export Development Canada for use solely in conjunction with the issuance of performance guarantees and letters of credit. The NBC Facility is renewed on an annual basis. It was renewed on October 15, 2021 for a one-year term on the same terms and conditions. The Company did not have any letters of credit or advance payment guarantees outstanding as of March 31, 2022 and December 31, 2021 under the NBC Facility.

**(b) Convertible Notes, Net**

As of March 31, 2022 and December 31, 2021, Convertible Notes, Net (as defined below) consist of the following:

<i>(In thousands of U.S. Dollars)</i>	March 31, 2022	December 31, 2021
Convertible Notes	\$ 230,000	\$ 230,000
Unamortized discounts and debt issuance costs	(5,990)	(6,359)
Convertible Notes, net	<u>\$ 224,010</u>	<u>\$ 223,641</u>

On March 19, 2021, the Company issued \$230.0 million of 0.500% Convertible Senior Notes due 2026 (the “Convertible Notes”) in a private placement conducted pursuant to Rule 144A under the Securities Act of 1933, as amended. The net proceeds from the issuance of the Convertible Notes were \$223.7 million, after deducting the initial purchasers’ discounts and commissions. In addition, the Company paid \$1.2 million of debt issuance costs associated with the Convertible Notes. The Company used a portion of the net proceeds from the issuance of the Convertible Notes to make a partial repayment of outstanding borrowings under previous credit facility and is using the remainder for working capital or other general corporate purposes.

The Convertible Notes are senior unsecured obligations of the Company and bear interest at a rate of 0.500% per annum on the principal of \$230.0 million, payable semi-annually in arrears on April 1 and October 1 of each year, beginning on October 1, 2021. The Convertible Notes will mature on April 1, 2026, unless they are redeemed or repurchased by the Company or converted on an earlier date.

Holders of the Convertible Notes have the right to convert their Convertible Notes in certain circumstances and during specified periods. Before January 1, 2026, holders of the Convertible Notes have the right to convert their Convertible Notes only upon the occurrence of certain events. From and after January 1, 2026, holders of the Convertible Notes may convert their Convertible Notes at any time at their election until the close of business on the second scheduled trading day immediately before the maturity date. Upon conversion, the Company will pay or deliver, as applicable, cash or a combination of cash (in an amount no less than the principal amount of the Convertible Notes being converted) and common shares, at its election, based on the applicable conversion rates. The initial conversion rate is 34.7766 common shares per \$1,000 principal amount of Convertible Notes, which represents an initial conversion price of approximately \$28.75 per common share, and is subject to adjustment upon the occurrence of certain events.

The Convertible Notes are redeemable, in whole or in part, at the Company’s option at any time, and from time to time, on or after April 6, 2024 and on or before the 40th scheduled trading day immediately before the maturity date, at a cash redemption price equal to the principal amount of the Convertible Notes to be redeemed, plus accrued and unpaid interest, if any, but only if the last reported sale price per share of the Company’s common stock exceeds 130% of the conversion price for a specified period of time. In addition, calling any Convertible Notes for redemption will constitute a “make-whole fundamental change” with respect to such notes, in which case the conversion rate applicable to the conversion of such notes will be increased in certain circumstances if such notes are converted after they are called for redemption.

In addition, upon the occurrence of a “fundamental change” (as defined below), holders may require the Company to repurchase their Convertible Notes at a cash repurchase price equal to the principal amount of the Convertible Notes to be repurchased, plus accrued and unpaid interest, if any. Subject to the terms and conditions of the indenture governing the Convertible Notes, a “fundamental change” means, among other things, an event resulting in (i) a change of control, (ii) a transfer of all or substantially all of the assets of the Company, (iii) a merger, (iv) liquidation or dissolution of the Company, or (v) delisting of the Company’s common shares from a national securities exchange.

The Company recorded the Convertible Notes entirely as a liability in the Condensed Consolidated Balance Sheets, net of initial purchasers’ discounts and commissions and other debt issuance costs, with interest expense reflecting the cash coupon plus the amortization of the discounts and capitalized costs. Additionally, under the “if-converted” method, because the principal amount of the Convertible Notes is settled in cash and the conversion spread is settleable in the Company’s common shares, diluted earnings per share is calculated by including the net number of incremental shares that would be issued upon conversion of the Convertible Notes, using the average market price during the period. Accordingly, the application of the “if-converted” method may reduce the Company’s reported diluted earnings per share.

In connection with the pricing of the Convertible Notes, the Company entered into privately negotiated capped call transactions (the “Capped Call Transactions”) with certain financial institutions. The Capped Call Transactions are expected to reduce potential dilution resulting from the common shares the Company is required to issue and/or to offset any potential cash payments the Company is required to make in excess of the principal amount of the Convertible Notes in the event that the market price per share of the Company’s common shares is greater than the strike price of the Capped Call Transactions, with such reduction and/or offset subject to a cap. The Capped Call Transactions have an initial cap price of \$37.2750 per share of the Company’s common shares, which represents a premium of 75% over the last reported sale price of the common shares when they were priced on March 16, 2021, and are subject to certain adjustments under the terms of the Capped Call Transactions. Collectively, the Capped Call Transactions cover, subject to anti-dilution adjustments substantially similar to those applicable to the Convertible Notes, the number of the Company’s common shares underlying the Convertible Notes. The cost of the Capped Call Transactions was approximately \$19.1 million.

The Capped Call Transactions are separate transactions, are not part of the terms of the Convertible Notes and will not affect any holder’s rights under the Convertible Notes. Holders of the Convertible Notes will not have any rights with respect to the Capped Call Transactions.

The Capped Call Transactions meet all of the applicable criteria for equity classification in accordance with ASC 815-10-15-74(a), “Derivatives and Hedging—Embedded Derivatives—Certain Contracts Involving an Entity’s Own Equity,” and, as a result, the related \$19.1 million cost was recorded as a reduction to Other Equity within Shareholders’ Equity on the Company’s Condensed Consolidated Statements of Shareholder’s Equity and Condensed Consolidated Balance Sheets.

## **8. Commitments, Contingencies and Guarantees**

### ***(a) Commitments***

In the ordinary course of its business, the Company enters into contractual agreements with third parties that include non-cancellable payment obligations, for which it is liable in future periods. These arrangements can include terms binding the Company to minimum payments and/or penalties if it terminates the agreement for any reason other than an event of default as described by the agreement.

### ***(b) Contingencies and guarantees***

The Company is involved in lawsuits, claims, and proceedings, including those identified below, which arise in the ordinary course of business. Management is required to assess the likelihood of any adverse judgments or outcomes related to these legal contingencies, as well as potential ranges of probable or reasonably possible losses. The Company records a provision for a liability when it is probable that a loss has been incurred and the amount of the loss can be reasonably estimated. The determination of the amount of any liability recorded or disclosed is reviewed at least quarterly based on a careful analysis of each individual exposure with, in some cases, the assistance of outside legal counsel, taking into account the impact of negotiations, settlements, rulings, and other pertinent information related to the case. The amount of liabilities recorded or disclosed for these contingencies may change in the future due to changes in management’s judgments resulting from new developments or changes in settlement strategy. Any resulting adjustment to the liabilities recorded by the Company could have a material adverse effect on its results of operations, cash flows, and financial position in the period or periods in which such changes in judgment occur. The Company believes it has adequate provisions for any such matters. The Company expenses legal costs relating to its lawsuits, claims and proceedings as incurred.

(i) In January 2004, the Company and IMAX Theatre Services Ltd., a subsidiary of the Company, commenced an arbitration seeking damages before the International Court of Arbitration of the International Chamber of Commerce (the “ICC”) with respect to the breach by Electronic Media Limited (“EML”) of its December 2000 agreement with the Company. In June 2004, the Company commenced a related arbitration before the ICC against EML’s affiliate, E-City Entertainment (I) PVT Limited (“E-City”). On March 27, 2008, the arbitration panel issued a final award in favor of the Company in the amount of \$11.3 million, consisting of past and future rents owed to the Company, plus interest and costs, as well as an additional \$2,512 each day in interest from October 1, 2007 until the date the award is paid. In July 2008, E-City commenced a proceeding in Mumbai, India seeking an order that the ICC award may not be recognized in India and on June 10, 2013, the Bombay High Court ruled that it had jurisdiction over the proceeding filed by E-City. The Company appealed that ruling to the Supreme Court of India, and on March 10, 2017, the Supreme Court set aside the Bombay High Court’s judgment and dismissed E-City’s petition. On March 29, 2017, the Company filed an Execution Application in the Bombay High Court seeking to enforce the ICC award against E-City and several related parties, which award the Company calculates to be \$24.6 million, inclusive of interest, as of March 31, 2022. That matter is currently pending. The Company has also taken steps to enforce the ICC final award outside of India. In December 2011, the Ontario Superior Court of Justice issued an order recognizing the final award and requiring E-City to pay the Company \$30,000 to cover the costs of the application, and in May 2012, the New York Supreme Court recognized the Canadian judgment and entered it as a New York judgment. The Company intends to continue pursuing its rights and seeking to enforce the award, although no assurances can be given with respect to the ultimate outcome.

(ii) On November 11, 2013, Giencourt Investments, S.A. (“Giencourt”) initiated arbitration before the International Centre for Dispute Resolution in Miami, Florida, based on alleged breaches by the Company of its theater agreement and related license agreement with Giencourt. On February 7, 2017, the panel issued a Partial Final Award and on July 21, 2017, the panel issued a Final Award (collectively, the “Award”), which held that the parties had reached a binding settlement, and therefore the panel did not reach a decision regarding the merits of the dispute. On December 3, 2020, the District Judge entered a final judgment (the “Final Judgment”) against the Company in the total amount of \$11.3 million as damages under the Award. As of December 31, 2020, the Company’s Consolidated Balance Sheets included a liability within Accrued and Other Liabilities of \$11.3 million related to the Final Judgment, consisting of \$7.2 million related to amounts previously collected from or owed to Giencourt principally in respect of theater systems that were not delivered and \$4.1 million recorded within Legal Judgment and Arbitration Awards in the Company’s Consolidated Statements of Operations during the year ended December 31, 2020 in respect of the remaining amounts owed under the Final Judgment. On June 23, 2021, the Company entered into a final settlement agreement with Giencourt to fully resolve all disputes between the parties in the United States and Ontario (the “Settlement Agreement”). In the second quarter of 2021, the Company paid Giencourt \$9.5 million as required by the terms of the Settlement Agreement. As a result of the Settlement Agreement, the Final Judgment has been vacated, all litigation between the parties in all jurisdictions has been dismissed and full and final releases have been exchanged by the parties. Accordingly, upon entry in the Settlement Agreement on June 23, 2021, the remaining \$1.8 million liability recorded within Accrued and Other Liabilities was reversed and a corresponding \$1.8 million benefit was recorded in the Company’s Condensed Consolidated Statements of Operations within Legal Judgment and Arbitration Awards in the second quarter of 2021.

(iii) In addition to the matters described above, the Company is currently involved in other legal proceedings or governmental inquiries which, in the opinion of the Company’s management, will not materially affect the Company’s financial position or future operating results, although no assurance can be given with respect to the ultimate outcome of any such proceedings.

(iv) In the normal course of business, the Company enters into agreements that may contain features that meet the definition of a guarantee. A guarantee is a contract (including an indemnity) that contingently requires the Company to make payments (either in cash, financial instruments, other assets, shares of its stock, or provision of services) to a third party based on (a) changes in an underlying interest rate, foreign exchange rate, equity or commodity instrument, index or other variable, that is related to an asset, a liability or an equity security of the counterparty, (b) failure of another party to perform under an obligating agreement or (c) failure of another third party to pay its indebtedness when due.

**(c) Financial Guarantees**

Certain subsidiaries of the Company have provided significant financial guarantees to third parties under the Credit Agreement (see Note 7).

**(d) Product Warranties**

The Company’s accrual for product warranties, which is recorded within Accrued and Other Liabilities in the Condensed Consolidated Balance Sheets, was \$nil as of March 31, 2022 and December 31, 2021, respectively.

**(e) Director and Officer Indemnifications**

The Company’s by-laws contain an indemnification of its current directors and officers, former directors and officers, and persons who have acted at its request to be a director and/or officer of an entity in which the Company is a shareholder or creditor, to indemnify them, to the extent permitted by the *Canada Business Corporations Act*, against expenses (including legal fees), judgments, fines and any amounts actually and reasonably incurred by them in connection with any action, suit or proceeding in which the directors and/or officers are sued as a result of their service, if they acted honestly and in good faith with a view to the best interests of the Company. In addition, the Company has entered into indemnification agreements with each of its directors in order to effectuate the foregoing. The nature of the indemnification prevents the Company from making a reasonable estimate of the maximum potential amount it could be required to pay to counterparties. The Company has purchased directors’ and officers’ liability insurance. No amount has been accrued in the Company’s Condensed Consolidated Balance Sheets as of March 31, 2022 and December 31, 2021, with respect to this indemnity.



**(f) Other Indemnification Agreements**

In the normal course of its operations, the Company provides indemnifications to counterparties in transactions such as: IMAX Theater Systems lease and sale agreements and the supervision of installation or servicing of IMAX Theater Systems; film production, exhibition and distribution agreements; real property lease agreements; and employment agreements. These indemnification agreements require the Company to compensate the counterparties for costs incurred as a result of litigation claims that may be suffered by the counterparty as a consequence of the transaction or the Company's breach or non-performance under these agreements. While the terms of these indemnification agreements vary based upon the contract, they normally extend for the life of the agreements. A small number of agreements do not provide for any limit on the maximum potential amount of indemnification; however, virtually all of the IMAX Theater System lease and sale agreements limit such maximum potential liability to the purchase price of the system. The fact that the maximum potential amount of indemnification required by the Company is not specified in some cases prevents the Company from making a reasonable estimate of the maximum potential amount it could be required to pay to counterparties. Historically, the Company has not made any significant payments under such indemnifications and no amounts have been accrued in the Condensed Consolidated Financial Statements with respect to the contingent aspect of these indemnities.

**9. Condensed Consolidated Statements of Operations Supplemental Information**

**(a) Selling Expenses**

The following table summarizes the Company's selling expenses, including sales commissions and other selling expenses such as direct advertising and marketing expenses, which are recognized within Costs and Expenses Applicable to Revenues in the Condensed Consolidated Statements of Operations, for the three months ended March 31, 2022 and 2021:

	Three Months Ended March 31,			
	2022		2021	
(In thousands of U.S. Dollars)	Sales Commissions	Other Selling Expenses	Sales Commissions	Other Selling Expenses
Technology sales <sup>(1)</sup>	\$ —	\$ 162	\$ 133	\$ 141
Image enhancement and maintenance services <sup>(2)</sup>	—	2,915	—	1,207
Technology rentals <sup>(3)</sup>	45	465	94	564
Total	\$ 45	\$ 3,542	\$ 227	\$ 1,912

- (1) Sales commissions paid prior to the recognition of the related revenue are deferred and recognized upon the client acceptance of the IMAX Theater System. Direct advertising and marketing costs for each theater are expensed as incurred.
- (2) Film exploitation costs, including advertising and marketing costs, are expensed as incurred.
- (3) Sales commissions related to joint revenue sharing arrangements accounted for as operating leases are recognized in the month they are earned by the salesperson, which is typically the month in which the theater system is installed. Direct advertising and marketing costs for each theater are expensed as incurred.

**(b) Foreign Exchange**

Included in Selling, General and Administrative Expenses for the three months ended March 31, 2022 is a net loss of \$(0.1) million (2021 — net gain of \$0.6 million) resulting from changes in exchange rates related to foreign currency denominated monetary assets and liabilities. See Note 16(c) for additional information.

**(c) Collaborative Arrangements**

*Joint Revenue Sharing Arrangements*

As of March 31, 2022, the Company has signed traditional and hybrid joint revenue sharing arrangements with 42 exhibitors (2021 — 41) for a total of 1,231 IMAX Theater Systems (2021 — 1,228), of which 915 theaters (2021 — 896) were operational and included in the network as of that date. The terms of these arrangements are similar in nature, rights, and obligations. (See Note 5 for a description of the material terms of the Company's collaborative joint revenue sharing arrangements.) The accounting policy for the Company's joint revenue sharing arrangements is disclosed in Note 3(p) of the Company's audited Consolidated Financial Statements in its 2021 Form 10-K.

Revenue attributable to transactions arising between the Company and its customers under joint revenue sharing arrangements are recorded within Revenues — Technology Sales (for hybrid joint revenue sharing arrangements) and Revenues — Technology Rentals (for traditional joint revenue sharing arrangements). For the three months ended March 31, 2022, such revenues totaled \$13.6 million (2021 — \$10.1 million). (See Note 13(a) for a disaggregated presentation of the Company's revenues.)

*IMAX DMR*

In an IMAX DMR arrangement, the Company receives a percentage of the box office receipts from a third party who owns the copyright to a film in exchange for converting the film into IMAX DMR format and distributing it through the IMAX network. The fee earned by the Company in a typical IMAX DMR arrangement averages approximately 12.5% of box office receipts (i.e. gross box office receipts less applicable sales taxes), except for within Greater China, where the Company receives a lower percentage of net box office receipts for certain Hollywood films.

For the three months ended March 31, 2022, IMAX DMR revenue was earned from the exhibition of 23 films (13 new films and 10 carryovers), as compared to 18 films (12 new films and 6 carryovers) and the re-release of classic titles in the three months ended March 31, 2021. The accounting policy for the Company's IMAX DMR arrangements is disclosed in Note 3(p) of the Company's audited Consolidated Financial Statements in its 2021 Form 10-K.

Revenue attributable to transactions arising between the Company and its customers under IMAX DMR arrangements are included in Revenues — Image Enhancement and Maintenance Services. For the three months ended March 31, 2022, such revenues totaled \$19.6 million (2021 — \$11.9 million). (See Note 13(a) for a disaggregated presentation of the Company's revenues.)

*Co-Produced Film Arrangements*

In certain film arrangements, the Company co-produces a film with a third party whereby the third party retains the copyright and certain other rights to the film. In some cases, the Company obtains exclusive theatrical distribution rights to the film. Under these arrangements, both parties contribute to the funding of the production, distribution and exploitation costs associated with the film.

As of March 31, 2022, the Company is party to one co-produced film arrangement, which represents the VIE total assets balance of \$1.6 million and liabilities balance of \$0.3 million and three other co-produced film arrangements, the terms of which are similar. The accounting policies relating to co-produced film arrangements are disclosed in Notes 3(b) and 3(p) of the Company's 2021 Form 10-K.

For the three months ended March 31, 2022, an expense of \$0.1 million (2021 — less than \$0.1 million) attributable to transactions between the Company and other parties involved in the production of the films have been included in Costs and Expenses Applicable to Revenues — Image Enhancement and Maintenance Services.

## 10. Condensed Consolidated Statements of Cash Flows – Supplemental Information

### (a) Changes in other operating assets and liabilities

	Three Months Ended March 31,	
	2022	2021
<i>(In thousands of U.S. Dollars)</i>		
Decrease (increase) in:		
Financing receivables	\$ 3,916	\$ 1,271
Prepaid expenses	(2,413)	(2,996)
Variable consideration receivables	829	(569)
Other assets	209	(470)
Increase (decrease) in:		
Accounts payable	2,184	(4,538)
Accrued and other liabilities	(14,911)	3,147
	<u>\$ (10,186)</u>	<u>\$ (4,155)</u>

### (b) Depreciation and amortization

	Three Months Ended March 31,	
	2022	2021
<i>(In thousands of U.S. Dollars)</i>		
Film assets	\$ 3,178	\$ 2,494
Property, plant and equipment:		
Equipment supporting joint revenue sharing arrangements	5,548	5,743
Other property, plant and equipment	2,028	2,476
Other intangible assets <sup>(1)</sup>	1,532	1,471
Other assets <sup>(2)</sup>	455	494
	<u>\$ 12,741</u>	<u>\$ 12,678</u>

(1) Includes the amortization of licenses and intellectual property recorded in Research and Development on the Condensed Consolidated Statement of Operations of \$0.3 million in the three months ended March 31, 2022 (2021 — \$0.3 million).

(2) Includes the amortization of lessee incentives provided by the Company to its customers under joint revenue sharing arrangements.

(c) **Write-downs**

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended	
	March 31,	
	2022	2021
Inventories <sup>(1)</sup>	\$ 12	\$ 103
Property, plant and equipment:		
Equipment supporting joint revenue sharing arrangements <sup>(2)</sup>	202	151
Other property, plant and equipment	2	3
Film assets <sup>(3)</sup>	165	(44)
	<u>\$ 381</u>	<u>\$ 213</u>

- (1) In the three months ended March 31, 2022, the Company recorded write-downs of less than \$0.1 million (2021 — \$0.1 million) in Costs and Expenses Applicable to Technology Sales related to excess and obsolete inventory.
- (2) In the three months ended March 31, 2022, the Company recorded charges of \$0.2 million (2021 — \$0.2 million) in Costs and Expenses Applicable to Technology Rentals mostly related to the write-down of leased xenon-based digital systems which were taken out of service in connection with customer upgrades to laser-based digital systems.
- (3) In the three months ended March 31, 2022, the Company recorded impairment losses of \$0.2 million (2021 — \$nil) related to the write-down of DMR and Film Distribution related film assets.

(d) **Significant non-cash investing activities**

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended	
	March 31,	
	2022	2021
Net increase (decrease) in accruals related to:		
Investment in equipment supporting joint revenue sharing arrangements	\$ 1,133	\$ 117
Acquisition of other intangible assets	32	(858)
	<u>\$ 1,165</u>	<u>\$ (741)</u>

(e) **Significant non-cash financing activities**

In the first quarter of 2021, the Company incurred \$1.2 million of debt issuance costs related to the Convertible Notes (see Note 7), which were not yet paid as of March 31, 2021 and were recorded on the Condensed Consolidated Balance Sheets within Accounts Payable and Accrued and Other Liabilities.

## 11. Income Taxes

### (a) Income Tax Expense

For the three months ended March 31, 2022, the Company recorded income tax expense of \$2.6 million (2021 — \$3.1 million). For the three months ended March 31, 2022, the Company's effective tax rate differs from the combined Canadian federal and provincial statutory income tax rate due to the following factors:

<i>(In thousands of U.S. Dollars, except rates)</i>	Three Months Ended March 31, 2022		Three Months Ended March 31, 2021	
	Amount	Rate	Amount	Rate
Income tax benefit at combined statutory rates	\$ 2,475	26.5%	\$ 1,969	26.5%
Adjustments resulting from:				
Increase in valuation allowance	(5,009)	(53.6%)	(6,971)	(93.8%)
(Shortfall) excess tax benefits related to share-based compensation	(129)	(1.4%)	741	10.0%
Changes to tax reserves	(160)	(1.7%)	557	7.5%
Gain on sale of Maoyan investment not taxable	—	—	1,367	18.4%
Withholding taxes resulting from management's decision to no longer indefinitely reinvest the historical earnings of certain foreign subsidiaries	—	—	(547)	(7.4%)
Other non-deductible/non-taxable items	213	2.3%	(184)	(2.5%)
Income tax expense	<u>\$ (2,610)</u>	<u>(27.9%)</u>	<u>\$ (3,068)</u>	<u>(41.3%)</u>

For the three months ended March 31, 2022, the Company recorded an additional \$5.0 million (2021 — \$7.0 million) valuation allowance against deferred tax assets in jurisdictions where management cannot reliably forecast that sufficient future tax liabilities will arise in specific jurisdictions, which includes the impact of the COVID-19 pandemic. Accordingly, the tax benefit associated with the current period losses in these jurisdictions is not ultimately reflected in the Company's Condensed Consolidated Statements of Operations.

As of March 31, 2022, the Company's Condensed Consolidated Balance Sheets include net deferred income tax assets of \$13.9 million, net of a valuation allowance of \$51.0 million (December 31, 2021 — \$13.9 million, net of a valuation allowance of \$46.0 million). The valuation allowance will be reversed when and if management determines it is more likely than not that the Company will incur sufficient tax liabilities to allow it to utilize the deferred tax assets against which the valuation allowance is recorded. Despite the valuation allowance recorded against its deferred tax assets, the Company remains entitled to benefit from tax attributes which currently have a valuation allowance applied to them.

### (b) Income Tax Effect on Other Comprehensive Income (Loss)

For the three months ended March 31, 2022 and 2021, the Income Tax Expense related to the components of Other Comprehensive Income (Loss) is as follows:

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended March 31,	
	2022	2021
Unrealized change in cash flow hedging instruments	\$ (82)	\$ (77)
Realized change in cash flow hedging instruments	(8)	60
Reclassification of unrealized change in ineffective cash flow hedging instruments	—	6
Defined benefit and postretirement benefit plans	(12)	(13)
	<u>\$ (102)</u>	<u>\$ (24)</u>

## 12. Capital Stock and Reserves

### (a) Share-Based Compensation

For the three months ended March 31, 2022, share-based compensation expense totaled \$6.1 million (2021 — \$5.3 million) and is reflected in the following accounts in the Condensed Consolidated Statements of Operations:

	Three Months Ended March 31,	
	2022	2021
<i>(In thousands of U.S. Dollars)</i>		
Cost and expenses applicable to revenues	\$ 239	\$ 294
Selling, general and administrative expenses	5,726	4,944
Research and development	87	69
	<u>\$ 6,052</u>	<u>\$ 5,307</u>

The following table summarizes the Company's share-based compensation expense by each award type:

	Three Months Ended March 31,	
	2022	2021
<i>(In thousands of U.S. Dollars)</i>		
Stock Options	\$ 207	\$ 351
Restricted Share Units	3,411	3,151
Performance Stock Units	1,729	1,014
IMAX China Stock Options	34	56
IMAX China Long Term Incentive Plan Restricted Share Units	497	632
IMAX China Long Term Incentive Plan Performance Stock Units	174	103
	<u>\$ 6,052</u>	<u>\$ 5,307</u>

For three months ended March 31, 2022 and 2021, the Company did not record any expenses related to restricted share units granted to non-employees.

#### Stock Option Summary

The following table summarizes the activity under the Company's Stock Option Plan ("SOP") and the IMAX Corporation Second Amended and Restated Long-Term Incentive Plan (as may be amended, "IMAX LTIP") for the three months ended March 31, 2022 and 2021:

	Number of Shares		Weighted Average Exercise Price Per Share	
	2022	2021	2022	2021
Stock options outstanding, beginning of period	3,736,157	4,892,962	\$ 26.61	\$ 26.81
Granted	—	—	—	—
Exercised	—	(38,754)	—	21.26
Forfeited	—	(44,362)	—	23.12
Expired	(126,569)	(885,698)	33.61	28.31
Cancelled	(2,197)	(10,917)	32.50	27.20
Stock options outstanding, end of period	<u>3,607,391</u>	<u>3,913,231</u>	26.36	26.56
Stock options exercisable, end of period	<u>3,524,298</u>	<u>3,615,079</u>	26.45	26.93

Stock options are no longer granted under the Company's previously approved SOP.

### Restricted Share Units ("RSU") Summary

The following table summarizes the activity in respect of RSUs issued under the IMAX LTIP for the three months ended March 31, 2022 and 2021:

	Number of Awards		Weighted Average Grant Date Fair Value Per Share	
	2022	2021	2022	2021
RSUs outstanding, beginning of period	1,457,883	1,564,838	\$ 19.16	\$ 18.33
Granted	636,427	754,778	19.64	20.94
Vested and settled	(648,527)	(523,573)	18.78	18.82
Forfeited	(1,328)	(60,329)	14.84	20.08
RSUs outstanding, end of period	<u>1,444,455</u>	<u>1,735,714</u>	19.54	19.26

### Performance Stock Units ("PSU") Summary

The Company grants awards for two types of PSUs, one which vests based on a combination of employee service and the achievement of certain EBITDA-based targets and one which vests based on a combination of employee service and the achievement of total shareholder return ("TSR") targets. The achievement of the EBITDA and TSR targets in these PSUs is determined over a three-year performance period. At the conclusion of the three-year performance period, the number of PSUs that ultimately vest can range from 0% to a maximum vesting opportunity of 175% of the initial award, depending upon actual performance versus the established EBITDA and stock-price targets.

The grant date fair value of PSUs with EBITDA-based targets is equal to the closing price of the Company's common shares on the date of grant or the average closing price of the Company's common shares for five days prior to the date of grant. The grant date fair value of PSUs with TSR targets is determined on the grant date using a Monte Carlo simulation, which is a valuation model that considers the likelihood of achieving the TSR targets embedded in the award ("Monte Carlo Model"). The compensation expense attributable to each type of PSU is recognized on a straight-line basis over the requisite service period.

The fair value determined by the Monte Carlo Model is affected by the Company's share price, as well as assumptions regarding a number of highly complex and subjective variables. These variables include, but are not limited to, market conditions as of the grant date, the Company's expected share price volatility over the term of the awards, and other relevant data. The compensation expense is fixed on the date of grant based on the fair value of the PSUs granted.

The amount and timing of compensation expense recognized for PSUs with EBITDA-based targets is dependent upon management's assessment of the likelihood of achieving these targets. If, as a result of management's assessment, it is projected that a greater number of PSUs will vest than previously anticipated, a life-to-date adjustment to increase compensation expense is recorded in the period that such determination is made. Conversely, if, as a result of management's assessment, it is projected that a lower number of PSUs will vest than previously anticipated, a life-to-date adjustment to decrease compensation expense is recorded in the period that such determination is made. The expense recognized in the three months ended March 31, 2022 and 2021 includes adjustments reflecting management's estimate of the number of PSUs with EBITDA-based targets expected to vest.

The following table summarizes the activity in respect of PSUs issued under the IMAX LTIP for the three months ended March 31, 2022 and 2021:

	Number of Awards		Weighted Average Grant Date Fair Value Per Share	
	2022	2021	2022	2021
PSUs outstanding, beginning of period	613,405	361,844	\$ 18.21	\$ 15.68
Granted	359,138	308,438	20.34	20.77
Forfeited	—	(2,526)	—	14.84
PSUs outstanding, end of period	<u>972,543</u>	<u>667,756</u>	19.00	18.03

As of March 31, 2022, the maximum number of shares of common stock that may be issued with respect to PSUs outstanding is 1,701,951, assuming full achievement of the EBITDA and TSR targets.

**(b) Issuer Purchases of Equity Securities**

In April 2021, the Company's Board of Directors approved a 12-month extension to its share repurchase program through June 30, 2022. The extension authorized the Company to repurchase up to approximately \$89.4 million worth of common shares, the remaining amount available of the original \$200.0 million initially authorized under the share repurchase program when it commenced on July 1, 2017. The repurchases may be made either in the open market or through private transactions, including repurchases made pursuant to a plan intended to comply with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended, subject to market conditions, applicable legal requirements, and other relevant factors. The Company has no obligation to repurchase shares and the share repurchase program may be suspended or discontinued by the Company at any time.

During the three months ended March 31, 2022, the Company repurchased 380,652 common shares, respectively (2021 — nil), at an average price of \$16.45 per share (2021 — \$nil), for a total of \$6.3 million (2021 — \$nil), excluding commissions. As of March 31, 2022, the Company has \$69.2 million available under its approved repurchase program. During the three months ended March 31, 2022 and 2021, there were no shares purchases in the administration of employee share based plans.

As of March 31, 2022 and December 31, 2021, the IMAX LTIP trustee did not hold any shares. Any shares held with the trustee are recorded at cost and are reported as a reduction against Capital Stock on the Company's Condensed Consolidated Balance Sheets.

Subsequent to March 31, 2022 and through April 27, 2022, the Company completed repurchases through a 10b5-1 program of 869,048 shares at an average price of \$16.42 per share, for a total cost of \$14.3 million, excluding commissions.

In 2021, IMAX China's shareholders granted its Board of Directors a general mandate authorizing the Board, subject to applicable laws, to repurchase shares of IMAX China not to exceed 10% of the total number of issued shares as of May 6, 2021 (34,835,824 shares). This program will be valid until the 2022 Annual General Meeting of IMAX China, which will be held on May 26, 2022. The repurchases may be made in the open market or through other means permitted by applicable laws. IMAX China has no obligation to repurchase its shares and the share repurchase program may be suspended or discontinued by IMAX China at any time. During the three months ended March 31, 2022, IMAX China repurchased 1,448,000 common shares, at an average price of HKD 9.89 per share (U.S. \$1.26 per share) for a total of HKD 14.3 million or U.S. \$1.8 million. The change in non-controlling interest as a result of common shares repurchased by IMAX China is recorded within Non-Controlling Interests in the Condensed Consolidated Balance Sheets and the Condensed Consolidated Statements of Shareholders' Equity. The difference between the consideration paid and the ownership interest obtained as a result of IMAX China share repurchases is recorded within Other Equity in the Condensed Consolidated Balance Sheets and the Condensed Consolidated Statements of Shareholders' Equity. (See Note 1.)

**(c) Basic and Diluted Weighted Average Shares Outstanding**

The following table reconciles the denominator of the basic and diluted weighted average share computations:

<i>(In thousands)</i>	Three Months Ended	
	March 31,	
	2022	2021
Issued and outstanding, beginning of period	58,654	58,921
Weighted average number of shares (repurchased) issued, net	(80)	91
Weighted average number of shares outstanding — basic	58,574	59,012
Weighted average effect of potential common shares, if dilutive	—	—
Weighted average number of shares outstanding — diluted	58,574	59,012

For the three months ended March 31, 2022, the calculation of diluted weighted average shares outstanding excludes 6,348,736 shares (2021 — 6,494,829 shares) that are issuable upon the vesting or exercise of share-based compensation including: (i) 1,444,455 RSUs (2021 — 1,735,714 RSUs), (ii) 1,296,890 PSUs (2021 — 845,884 PSUs) and (iii) 3,607,391 stock options (2021 — 3,913,231 stock options), as the effect would be anti-dilutive.

The calculation of diluted weighted average shares outstanding for the three months ended March 31, 2022 also excludes any shares potentially issuable upon the conversion of the Convertible Notes as the average market price of the Company's common shares during the period of time they were outstanding was less than the conversion price of the Convertible Notes. (See Note 7(b).)



(d) *Statutory Surplus Reserve*

Pursuant to the corporate law of the People's Republic of China (the "PRC"), entities registered in the PRC are required to maintain certain statutory reserves, which are appropriated from after-tax profits (after offsetting accumulated losses from prior years), as reported in their respective statutory financial statements, before the declaration or payment of dividends to equity holders. All statutory reserves are created for specific purposes.

The Company's PRC subsidiaries are required to appropriate 10% of statutory net profits to statutory surplus reserves, upon distribution of their after-tax profits. The Company's PRC subsidiaries may discontinue the contribution when the aggregate sum of the statutory surplus reserve is more than 50% of its registered capital. The statutory surplus reserve is non-distributable other than during liquidation and may only be used to fund losses from prior years, to expand production operations, or to increase the capital of the subsidiaries. In addition, the subsidiaries may make further contribution to the discretionary surplus reserve using post-tax profits in accordance with resolutions of the Board of Directors.

In 2021, one of the Company's PRC subsidiaries declared and paid dividends of RMB 131.6 million (\$20.4 million). In the third quarter of 2021, upon passage of the requisite resolution of the Board of Directors, a statutory surplus reserve of RMB 36.4 million (\$5.6 million) was recorded within Shareholders' Equity as an appropriation of the retained earnings of the Company's PRC subsidiaries, of which \$3.9 million is attributable to the Company's common shareholders and \$1.7 million is attributable to non-controlling shareholders. The statutory surplus reserve of RMB 36.4 million (\$5.6 million) has reached 50% of its PRC subsidiaries' registered capital. No additional statutory surplus reserve was recorded by the Company's PRC subsidiaries for the three months ended March 31, 2022.

**13. Revenue from Contracts with Customers**

(a) *Disaggregated Information About Revenue*

The following tables summarize the Company's revenues by type and reportable segment for the three months ended March 31, 2022 and 2021:

	Three Months Ended March 31, 2022				
	Revenue from Contracts with Customers		Revenue from Lease Arrangements	Finance Income	Total
	Fixed Consideration	Variable Consideration			
<i>(In thousands of U.S. Dollars)</i>					
<b>Technology sales</b>					
IMAX Systems <sup>(1)</sup>	\$ 5,945	\$ 368	\$ —	\$ —	\$ 6,313
Joint Revenue Sharing Arrangements, fixed fees	—	—	990	—	990
Other Theater Business	670	—	—	—	670
All Other	922	81	—	—	1,003
Sub-total	7,537	449	990	—	8,976
<b>Image enhancement and maintenance services</b>					
IMAX DMR	—	19,564	—	—	19,564
IMAX Maintenance	14,942	—	—	—	14,942
Film Distribution	144	437	—	—	581
Film Post-Production	825	—	—	—	825
All Other	—	182	—	—	182
Sub-total	15,911	20,183	—	—	36,094
<b>Technology rentals</b>					
Joint Revenue Sharing Arrangements, contingent rent	—	—	12,643	—	12,643
All Other	—	—	18	—	18
Sub-total	—	—	12,661	—	12,661
<b>Finance income</b>					
IMAX Systems	—	—	—	2,305	2,305
Total	\$ 23,448	\$ 20,632	\$ 13,651	\$ 2,305	\$ 60,036

**Three Months Ended March 31, 2021**

<i>(In thousands of U.S. Dollars)</i>	Revenue from		Revenue from Lease Arrangements	Finance Income	Total
	Contracts with Customers				
	Fixed Consideration	Variable Consideration			
<b>Technology sales</b>					
IMAX Systems <sup>(1)</sup>	\$ 838	\$ 1,080	\$ 1,376	\$ —	\$ 3,294
Joint Revenue Sharing Arrangements, fixed fees	—	—	1,738	—	1,738
Other Theater Business	437	—	—	—	437
All Other	668	38	—	—	706
Sub-total	1,943	1,118	3,114	—	6,175
<b>Image enhancement and maintenance services</b>					
IMAX DMR	—	11,944	—	—	11,944
IMAX Maintenance	8,906	—	—	—	8,906
Film Distribution	—	222	—	—	222
Film Post-Production	591	—	—	—	591
All Other	—	(48)	—	—	(48)
Sub-total	9,497	12,118	—	—	21,615
<b>Technology rentals</b>					
Joint Revenue Sharing Arrangements, contingent rent	—	—	8,359	—	8,359
Sub-total	—	—	8,359	—	8,359
<b>Finance income</b>					
IMAX Systems	—	—	—	2,605	2,605
<b>Total</b>	<b>\$ 11,440</b>	<b>\$ 13,236</b>	<b>\$ 11,473</b>	<b>\$ 2,605</b>	<b>\$ 38,754</b>

(1) Includes revenues earned from sale and sales-type lease arrangements involving new and upgraded IMAX Theater Systems, as well as the impact of renewals and amendments to existing theater system arrangements.

**(b) Deferred Revenue**

IMAX Theater System sale and lease arrangements include a requirement for the Company to provide maintenance services over the life of the arrangement, subject to a consumer price index adjustment each year. In circumstances where customers prepay the entire term's maintenance fee, additional payments are due to the Company for the years after its extended warranty and maintenance obligations expire. Payments upon renewal each year are either prepaid or made in arrears and can vary in frequency from monthly to annually. As of March 31, 2022, \$19.2 million of consideration has been deferred in relation to outstanding maintenance services to be provided on existing maintenance contracts (December 31, 2021 — \$20.2 million). Maintenance revenue is recognized evenly over the contract term which coincides with the period over which maintenance services are provided. In the event of customer default, any payments made by the customer may be retained by the Company.

In instances where the Company receives consideration prior to satisfying its performance obligations, the recognition of revenue is deferred. The majority of the deferred revenue balance relates to payments received by the Company for IMAX Theater Systems where control of the system has not transferred to the customer. The deferred revenue balance related to an individual theater increases as progress payments are made and is then derecognized when control of the system is transferred to the customer. Recognition dates are variable and depend on numerous factors, including some outside of the Company's control.

## 14. Segment Reporting

The Company's Chief Executive Officer ("CEO") is its Chief Operating Decision Maker ("CODM"), as such term is defined under U.S. GAAP. The CODM, along with other members of management, assess segment performance based on segment revenues and gross margins. Selling, general and administrative expenses, research and development costs, the amortization of intangible assets, provision for (reversal of) current expected credit losses, certain write-downs, interest income, interest expense, and income tax (expense) benefit are not allocated to the Company's segments.

The Company has the following reportable segments: (i) IMAX DMR; (ii) Joint Revenue Sharing Arrangements ("JRSA"); (iii) IMAX Systems, (iv) IMAX Maintenance; (v) Other Theater Business; (vi) Film Distribution; and (vii) Film Post-Production. The Company's activities that do not meet the criteria to be considered a reportable segment are disclosed within All Other. The Company organizes its reportable segments into the following three categories, identified by the nature of the product sold or service provided:

- (i) IMAX Technology Network, which earns revenue based on contingent box office receipts and includes the IMAX DMR segment and contingent rent from the JRSA segment;
- (ii) IMAX Technology Sales and Maintenance, which includes results from the IMAX Systems, IMAX Maintenance, and Other Theater Business segments, as well as fixed revenues from the JRSA segment; and
- (iii) Film Distribution and Post-Production, which includes activities related to the distribution of large-format documentary films, primarily to institutional theaters, and the distribution of exclusive experiences ranging from live performances to interactive events with leading artists and creators (through the Film Distribution segment) and the provision of film post-production and quality control services.

The Company presents its segment information at a disaggregated level to provide more relevant information to the users of its financial statements.

Transactions between the IMAX DMR segment and the Film Post-Production segment are valued at exchange value. Inter-segment profits are eliminated upon consolidation, as well as for the disclosures below.

In the first quarter of 2022, the Company's internal reporting was updated to reclassify the results of IMAX Enhanced™, an initiative to bring *The IMAX Experience*® into the home, out of the New Business Initiatives segment and into All Other for segment reporting purposes. IMAX Enhanced was the only component of the New Business Initiatives segment. Prior period comparatives have been reclassified to conform with the current period presentation.

The following table presents the Company's revenue and gross margin (margin loss) by category and reportable segment for the three months ended March 31, 2022 and 2021:

	Revenue <sup>(1)</sup>		Gross Margin (Margin Loss)	
	2022	2021	2022	2021
<i>(In thousands of U.S. Dollars)</i>				
<b>IMAX Technology Network</b>				
IMAX DMR	\$ 19,564	\$ 11,944	\$ 13,557	\$ 8,251
JRSA, contingent rent	12,643	8,359	6,198	1,883
	<u>32,207</u>	<u>20,303</u>	<u>19,755</u>	<u>10,134</u>
<b>IMAX Technology Sales and Maintenance</b>				
IMAX Systems <sup>(2)</sup>	8,618	5,899	3,976	3,012
JRSA, fixed fees	990	1,738	252	156
IMAX Maintenance	14,942	8,906	7,870	3,823
Other Theater Business <sup>(3)</sup>	670	437	100	63
	<u>25,220</u>	<u>16,980</u>	<u>12,198</u>	<u>7,054</u>
<b>Film Distribution and Post-Production</b>				
Film Distribution	581	222	(1,247)	(261)
Post-Production	825	591	386	236
	<u>1,406</u>	<u>813</u>	<u>(861)</u>	<u>(25)</u>
Sub-total for reportable segments	<u>58,833</u>	<u>38,096</u>	<u>31,092</u>	<u>17,163</u>
All Other <sup>(4)</sup>	1,203	658	679	118
Total	<u>\$ 60,036</u>	<u>\$ 38,754</u>	<u>\$ 31,771</u>	<u>\$ 17,281</u>

- (1) The Company's largest customer represents 28% of total Revenues for the three months ended March 31, 2022 (2021 — 31%). No single customer comprises more than 10% of the Company's total Accounts Receivable as of March 31, 2022 and December 31, 2021.
- (2) The revenue from this segment includes the initial upfront payments and the present value of fixed minimum payments from sale and sales-type lease arrangements of IMAX Theater Systems, as well as the present value of estimated variable consideration from sales of IMAX Theater Systems. To a lesser extent, the revenue from this segment also includes finance income associated with these revenue streams.
- (3) The revenue from this segment principally includes after-market sales of IMAX Theater System parts and 3D glasses.
- (4) All Other includes the results from IMAX Enhanced and other ancillary activities. In the first quarter of 2022, the Company's internal reporting was updated to reclassify the results of IMAX Enhanced out of the New Business Initiatives segment into All Other for segment reporting purposes. Prior period comparatives have been revised to conform with the current period presentation.

## Geographic Information

Revenue by geographic area is based on the location of the customer. Revenue related to IMAX DMR is presented based upon the geographic location of the theaters that exhibit the remastered films. IMAX DMR revenue is generated through contractual relationships with studios and other third parties and these may not be in the same geographical location as the theater.

The following table summarizes the Company's revenues by geographic area for the three months ended March 31, 2022 and 2021:

<i>(In thousands of U.S. Dollars)</i>	Three Months Ended March 31,	
	2022	2021
<b>Revenue</b>		
Greater China	\$ 21,476	\$ 25,518
United States	19,067	3,699
Western Europe	7,061	1,369
Asia (excluding China)	5,767	4,302
Latin America	1,886	53
Canada <sup>(2)</sup>	1,772	(553)
Russia/the CIS & Ukraine <sup>(1)</sup>	1,010	1,886
Rest of the World	1,997	2,480
Total	\$ 60,036	\$ 38,754

(1) In addition to Russia, the CIS includes Azerbaijan, Belarus, Kazakhstan, and Kyrgyzstan. As of March 31, 2022, the IMAX network includes 54 theaters in Russia, 9 theaters in Ukraine, and 1 theater in Belarus.

(2) For the three months ended March 31, 2021, the amount attributable to Canada includes a \$0.5 million reversal of previously recorded revenue and a corresponding reduction in the net investment in lease as a result of a lease modification entered into during the period.

No single country in the Rest of the World, Western Europe, Latin America and Asia (excluding Greater China) comprises more than 10% of the Company's total revenue in the three months ended March 31, 2022 and 2021.

## 15. Employee's Pension and Postretirement Benefits

### (a) Defined Benefit Plan

The Company has an unfunded defined benefit pension plan, the Supplemental Executive Retirement Plan (the "SERP"), covering its CEO, Richard L. Gelfond. Under the terms of the SERP, if Mr. Gelfond's employment is terminated other than for cause (as defined in his employment agreement), he is entitled to receive SERP benefits in the form of a lump sum payment. SERP benefit payments to Mr. Gelfond are subject to a deferral for six months after the termination of his employment, at which time Mr. Gelfond will be entitled to receive interest on the deferred amount credited at the applicable federal rate for short-term obligations. Pursuant to an amendment to his employment agreement dated November 1, 2019, the term of Mr. Gelfond's employment was extended through December 31, 2022, although Mr. Gelfond has not informed the Company that he intends to retire at that time. Under the terms of this amendment to his employment agreement, the total benefit payable to Mr. Gelfond under the SERP was fixed at \$20.3 million.

As of March 31, 2022 and December 31, 2021, the Company's projected benefit obligation and unfunded status related to the SERP are as follows:

<i>(In thousands of U.S. Dollars)</i>	March 31, 2022	December 31, 2021
	<b>Projected benefit obligation:</b>	
Obligation, beginning of period	\$ 20,056	\$ 20,116
Interest cost	40	72
Actuarial gain	—	(132)
Obligation, end of period and unfunded status	\$ 20,096	\$ 20,056

For the three months ended March 31, 2022, the Company recorded interest costs of less than \$0.1 million (2021 — less than \$0.1 million) related to the SERP. The Company expects to recognize additional interest costs of \$0.1 million related to the SERP during the remainder of 2022. No contributions are expected to be made to the SERP in 2022.

**(b) Defined Contribution Pension Plan**

The Company also maintains defined contribution plans for its employees, including its executive officers. The Company makes contributions to these plans on behalf of employees in an amount up to 5% of their base salary subject to certain prescribed maximums. During the three months ended March 31, 2022, the Company contributed and recorded expense of \$0.3 million (2021 — \$0.3 million) to its Canadian defined contribution plan and \$0.3 million (2021 — \$0.2 million) to its defined contribution employee plan under Section 401(k) of the U.S. Internal Revenue Code.

**(c) Postretirement Benefits – Executives**

The Company has an unfunded postretirement plan for Mr. Gelfond and Bradley J. Wechsler, former Chairman of the Company's Board of Directors (the "Executive Postretirement Benefit Plan"). The Executive Postretirement Benefit Plan provides that the Company will maintain health benefits for Messrs. Gelfond and Wechsler until they become eligible for Medicare and, thereafter, the Company will provide Medicare supplemental coverage as selected by Messrs. Gelfond and Wechsler. Mr. Wechsler retired from the Company's Board of Directors on June 9, 2021. The Company maintained Mr. Wechsler's health benefits through December 31, 2021, and thereafter is providing him with Medicare supplemental coverage.

As of March 31, 2022, the Company's postretirement benefits obligation under this plan is \$0.7 million (December 31, 2021 — \$0.7 million). For the three months ended March 31, 2022, the Company has recorded an expense of less than \$0.1 million (2021 — less than \$0.1 million) related to this plan.

**(d) Postretirement Benefits – Canadian Employees**

The Company has an unfunded postretirement plan for its Canadian employees meeting specific eligibility requirements. The Company will provide eligible participants, upon retirement, with health and welfare benefits. As of March 31, 2022, the Company's postretirement benefits obligation under this plan is \$1.7 million (December 31, 2021 — \$1.7 million). For the three months ended March 31, 2022, the Company has recorded expense of less than \$0.1 million (2021 — less than \$0.1 million) related to this plan.

**(e) Deferred Compensation Benefit Plan**

The Company maintained a nonqualified deferred compensation benefit plan (the "Retirement Plan") covering the former CEO of IMAX Entertainment and Senior Executive Vice President of the Company. Under the terms of the Retirement Plan, the benefits were due to vest in full if the executive incurred a separation from service from the Company (as defined therein). In 2018, the executive incurred a separation from service from the Company, and as such, the Retirement Plan benefits became fully vested as of December 31, 2018.

As of March 31, 2022, the benefit obligation related to the Retirement Plan was \$3.8 million (December 31, 2021 — \$3.8 million) and is recorded on the Company's Condensed Consolidated Balance Sheets within Accrued and Other Liabilities. As the Retirement Plan is fully vested, the benefit obligation is measured at the present value of the benefits expected to be paid in the future with the accretion of interest recognized in the Condensed Consolidated Statements of Operations within Retirement Benefits Non-Service Expense.

The Retirement Plan is funded by an investment in company-owned life insurance ("COLI"), which is recorded at its fair value on the Company's Condensed Consolidated Balance Sheets within Prepaid Expenses. As of March 31, 2022, fair value of the COLI asset was \$3.3 million (December 31, 2021 — \$3.3 million). Gains and losses resulting from changes in the cash surrender value of the COLI asset are recognized in the Condensed Consolidated Statements of Operations within Realized and Unrealized Investment Gains.

## 16. Financial Instruments

### (a) Financial Instruments

The Company maintains cash with various major financial institutions. The Company's cash is invested with highly rated financial institutions. The Company's \$162.3 million balance of cash and cash equivalents as of March 31, 2022 (December 31, 2021 — \$189.7 million) includes \$96.8 million in cash held outside of Canada (December 31, 2021 — \$102.1 million), of which \$73.4 million was held in the PRC (December 31, 2021 — \$76.3 million).

### (b) Fair Value Measurements

The carrying values of the Company's Cash and Cash Equivalents, Accounts Receivable, Accounts Payable and Accrued and Other Liabilities due within one year approximate their fair values due to the short-term maturity of these instruments. Including these instruments, the Company's financial instruments consist of the following:

(In thousands of U.S. Dollars)	As of March 31, 2022		As of December 31, 2021	
	Carrying Amount	Estimated Fair Value	Carrying Amount	Estimated Fair Value
<b>Level 1</b>				
Cash and cash equivalents <sup>(1)</sup>	\$ 162,300	\$ 162,300	\$ 189,711	\$ 189,711
Equity securities <sup>(2)</sup>	1,092	1,092	1,087	1,087
<b>Level 2</b>				
Net financed sales receivables <sup>(3)</sup>	\$ 103,660	\$ 103,740	\$ 112,657	\$ 112,662
Net investment in sales-type leases <sup>(3)</sup>	27,850	27,902	28,392	28,407
Equity securities <sup>(1)</sup>	1,000	1,000	1,000	1,000
COLI <sup>(4)</sup>	3,305	3,305	3,275	3,275
Foreign exchange contracts — designated forwards <sup>(2)</sup>	423	423	79	79
Working Capital Facility borrowings <sup>(1)</sup>	(3,627)	(3,627)	(3,612)	(3,612)
Convertible Notes <sup>(5)</sup>	(230,000)	(220,618)	(230,000)	(223,100)
<b>Level 3</b>				
Interest in film classified as a financial instrument <sup>(6)</sup>	\$ 4,726	\$ 4,726	\$ —	\$ —

(1) Recorded at cost, which approximates fair value.

(2) Fair value is determined using quoted prices in active markets.

(3) Fair value is estimated based on discounting future cash flows at currently available interest rates with comparable terms.

(4) Measured at cash surrender value, which approximates fair value.

(5) Fair value is determined using quoted market prices that are observable in the market or that could be derived from observable market data.

(6) Recorded at amortized cost. Inputs used in the calculation of estimated fair value include management's projection of future box office and ancillary receipts for the film net of distribution costs and other costs in accordance with the investment agreement.

### (c) Foreign Exchange Risk Management

The Company is exposed to market risk from changes in foreign currency rates.

A majority of the Company's revenues is denominated in U.S. Dollars while a significant portion of its costs and expenses is denominated in Canadian Dollars. A portion of the Company's net U.S. Dollar cash is converted to Canadian Dollars to fund Canadian Dollar expenses through the spot market. In China and Japan, the Company has ongoing operating expenses related to its operations in RMB and Japanese Yen, respectively. Net cash flows are converted to and from U.S. Dollars through the spot market. The Company also has cash receipts under leases denominated in RMB, Japanese Yen, Canadian Dollars and Euros which are converted to U.S. Dollars through the spot market. In addition, because IMAX films generate box office in 87 different countries, unfavorable exchange rates between applicable local currencies and the U.S. Dollar could have an impact on box-office receipts and the Company's revenues and results of operations. The Company's policy is to not use any financial instruments for trading or other speculative purposes.

The Company has entered into a series of foreign currency forward contracts to manage the risks associated with the volatility of foreign currencies. Certain of these foreign currency forward contracts met the criteria required for hedge accounting under the Derivatives and Hedging Topic of the FASB ASC at inception, and continue to meet hedge effectiveness tests at March 31, 2022 (the “Foreign Currency Hedges”), with settlement dates throughout 2023. Foreign currency derivatives are recognized and measured in the Condensed Consolidated Balance Sheets at fair value. Changes in the fair value (i.e., gains or losses) are recognized in the Condensed Consolidated Statements of Operations except for derivatives designated and qualifying as foreign currency cash flow hedging instruments. The Company currently has cash flow hedging instruments associated with Selling, General and Administrative Expenses. For foreign currency cash flow hedging instruments related to Selling, General and Administrative Expenses, the effective portion of the gain or loss in a hedge of a forecasted transaction is reported in Accumulated Other Comprehensive Income and reclassified to the Condensed Consolidated Statements of Operations when the forecasted transaction occurs. Any ineffective portion is recognized immediately in the Condensed Consolidated Statements of Operations.

The following tabular disclosures reflect the impact that derivative instruments and hedging activities have on the Company’s Condensed Consolidated Financial Statements:

Notional value of foreign exchange contracts:

<i>(In thousands of U.S. Dollars)</i>	<u>March 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
<b>Derivatives designated as hedging instruments:</b>		
Foreign exchange contracts — Forwards	\$ 23,569	\$ 26,702

Fair value of derivatives in foreign exchange contracts:

<i>(In thousands of U.S. Dollars)</i>	<u>Balance Sheet Location</u>	<u>March 31,</u> <u>2022</u>	<u>December 31,</u> <u>2021</u>
<b>Derivatives designated as hedging instruments:</b>			
Foreign exchange contracts — Forwards	Other assets	\$ 423	\$ 184
	Accrued and other liabilities	—	(105)
		<u>\$ 423</u>	<u>\$ 79</u>

Derivatives in foreign currency hedging relationships are as follows:

<i>(In thousands of U.S. Dollars)</i>		<u>Three Months Ended March 31,</u> <u>2022</u>	<u>2021</u>
<b>Foreign exchange contracts</b>	<b>Derivative Gain</b>		
— Forwards	Recognized in OCI		
	(Effective Portion)	\$ 315	\$ 295

<i>(In thousands of U.S. Dollars)</i>	<u>Location of Derivative (Loss) Gain</u> <u>Reclassified from AOCI</u> <u>(Effective Portion)</u>	<u>Three Months Ended March 31,</u> <u>2022</u>	<u>2021</u>
<b>Foreign exchange contracts</b>	<b>Selling, general and</b>		
— Forwards	administrative expenses	\$ (29)	\$ 231

Non-designated derivatives in foreign currency relationships are as follows:

<i>(In thousands of U.S. Dollars)</i>	<u>Location of Derivative Gain</u>	<u>Three Months Ended March 31,</u> <u>2022</u>	<u>2021</u>
<b>Foreign exchange contracts</b>	<b>Selling, general and</b>		
— Forwards	administrative expenses	\$ —	\$ 22

The Company's estimated net amount of the existing gains as of March 31, 2022 is \$0.3 million, which is expected to be reclassified to earnings within the next twelve months.



**(d) Investments in Equity Securities**

As of March 31, 2022, the Condensed Consolidated Balance Sheets includes \$1.1 million (December 31, 2021 — \$1.1 million) of investments in equity securities.

On January 17, 2019, IMAX China (Hong Kong), Limited, a wholly-owned subsidiary of IMAX China, as an investor entered into a cornerstone investment agreement with Maoyan Entertainment (“Maoyan”) (as the issuer) and Morgan Stanley Asia Limited (as a sponsor, underwriter and the underwriters’ representative). Pursuant to this agreement, IMAX China (Hong Kong), Limited agreed to invest \$15.2 million to subscribe for a certain number of shares of Maoyan at the final offer price pursuant to the global offering of the share capital of Maoyan, and this investment would be subject to a lock-up period of six months following the date of the global offering. On February 4, 2019, Maoyan completed its global offering, upon which, IMAX China (Hong Kong), Limited became a less than 1% shareholder in Maoyan. During the first quarter of 2021, IMAX China (Hong Kong), Limited sold all of its 7,949,000 shares of Maoyan for gross proceeds of \$17.8 million and recognized \$5.2 million gain in the Condensed Consolidated Statements of Operations.

The Company has an investment of \$1.1 million (December 31, 2021 — \$1.1 million) in the shares of an exchange traded fund. This investment is classified as an equity investment.

As of March 31, 2022, the Company held investments in the preferred shares of enterprises which meet the criteria for classification as an equity security carried at historical cost, net of impairment charges. The carrying value of these equity security investments was \$1.0 million at March 31, 2022 (December 31, 2021 — \$1.0 million) and is recorded in Other Assets.

**(e) Interest in Film**

On January 10, 2022, IMAX (Shanghai) Culture and Technology Co., Ltd, a wholly-owned subsidiary of IMAX China, signed a joint film investment agreement with Wanda Film (Horgos) Co. Ltd. to invest RMB 30.0 million (\$4.7 million) in the movie *Mozart from Space*, which is expected to be released in 2022. IMAX (Shanghai) Culture and Technology Co., Ltd. has the right to receive a distribution of the income of the film in accordance with the agreement. IMAX (Shanghai) Culture and Technology Co., Ltd.'s commitment is limited to its RMB 30.0 million (\$4.7 million) investment and has no further investment obligation if the actual movie production cost exceeds the original budget.

The investment meets the criteria for classification as a financial asset. The investment is measured at amortized cost and is recorded within Other Assets in the Condensed Consolidated Balance Sheets.

## 17. Non-Controlling Interests

### (a) *IMAX China Non-Controlling Interest*

The Company indirectly owns 71.41% of IMAX China, whose shares trade on the Hong Kong Stock Exchange (December 31, 2021 — 71.11%). IMAX China remains a consolidated subsidiary of the Company. As of March 31, 2022, the balance of the Company's non-controlling interest in IMAX China is \$74.1 million (December 31, 2021 — \$73.5 million). For the three months ended March 31, 2022, the net income attributable to the non-controlling interest in IMAX China is \$1.7 million (2021 — \$4.3 million).

### (b) *Other Non-Controlling Interest*

The Company's Original Film Fund was established in 2014 to co-finance a portfolio of 10 original large-format films. The initial investment in the Original Film Fund was committed by a third party in the amount of \$25.0 million, with the possibility of contributing additional funds. The Company has contributed \$9.0 million to the Original Film Fund since 2014 and has reached its maximum contribution. As of March 31, 2022, the Original Film Fund has invested \$22.3 million toward the development of original films. The related production, financing and distribution agreement includes put and call rights relating to change of control of the rights, title and interest in the co-financed pictures.

### (c) *Non-Controlling Interest in Temporary Equity*

The following table summarizes the movement of the non-controlling interest in temporary equity related to the Original Film Fund for the three months ended March 31, 2022 and 2021:

<i>(In thousands of U.S. Dollars)</i>	March 31,	
	2022	2021
Beginning balance	\$ 758	\$ 759
Net income (loss)	3	(9)
Ending balance	\$ 761	\$ 750

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Presented below is Management's Discussion and Analysis of Financial Condition and Results of Operations (or "MD&A") for IMAX Corporation and its consolidated subsidiaries ("IMAX" or the "Company") for the three months ended March 31, 2022 and 2021. MD&A should be read in conjunction with Note 14, "Segment Reporting," in the accompanying Condensed Consolidated Financial Statements in Item 1.

As of March 31, 2022, the Company indirectly owns 71.41% of IMAX China Holding, Inc. ("IMAX China"), whose shares trade on the Hong Kong Stock Exchange. IMAX China is a consolidated subsidiary of the Company.

### SPECIAL NOTE REGARDING FORWARD-LOOKING INFORMATION

Certain statements included in this quarterly report may constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995 or "forward-looking information" within the meaning of Canadian securities laws. These forward-looking statements include, but are not limited to, references to business and technology strategies and measures to implement strategies, competitive strengths, goals, expansion and growth of business, operations and technology, future capital expenditures (including the amount and nature thereof), industry prospects and consumer behavior, plans and references to the future success of the Company and expectations regarding its future operating, financial and technological results. These forward-looking statements are based on certain assumptions and analyses made by the Company in light of its experience and its perception of historical trends, current conditions and expected future developments, as well as other factors it believes are appropriate in the circumstances. However, whether actual results and developments will conform with the expectations and predictions of the Company is subject to a number of risks and uncertainties, including, but not limited to, risks related to the adverse impact of the COVID-19 pandemic; risks associated with investments and operations in foreign jurisdictions and any future international expansion, including those related to economic, political and regulatory policies of local governments and laws and policies of the United States and Canada, as well as geopolitical conflicts, such as the conflict between Russia and Ukraine; risks related to the Company's growth and operations in China; the performance of IMAX DMR<sup>®</sup> films; the signing of theater system agreements; conditions, changes and developments in the commercial exhibition industry; risks related to currency fluctuations; the potential impact of increased competition in the markets within which the Company operates, including competitive actions by other companies; the failure to respond to change and advancements in digital technology; risks relating to consolidation among commercial exhibitors and studios; risks related to brand extensions and new business initiatives; conditions in the in-home and out-of-home entertainment industries; the opportunities (or lack thereof) that may be presented to and pursued by the Company; risks related to cyber-security and data privacy; risks related to the Company's inability to protect its intellectual property; risks related to climate change; risks related to weather conditions and natural disasters that may disrupt or harm the Company's business; risks related to the Company's indebtedness and compliance with its debt agreements; general economic, market or business conditions; risks related to political, economic and social instability, including with respect to the Russia-Ukraine conflict; the failure to convert theater system backlog into revenue; changes in laws or regulations; any statements of belief and any statements of assumptions underlying any of the foregoing; other factors and risks outlined in the Company's periodic filings with the United States Securities and Exchange Commission (the "SEC") or in Canada, the System for Electronic Document Analysis and Retrieval (the "SEDAR"); and other factors, many of which are beyond the control of the Company. Consequently, all of the forward-looking statements made in this quarterly report are qualified by these cautionary statements, and actual results or anticipated developments by the Company may not be realized, and even if substantially realized, may not have the expected consequences to, or effects on, the Company. The forward-looking statements herein are made only as of the date hereof and the Company undertakes no obligation to update publicly or otherwise revise any forward-looking statements, whether as a result of new information, future events or otherwise.

The Company makes available, free of charge, its Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, and any amendments to such reports, as soon as reasonably practicable after such filings have been made with the SEC and Canadian securities regulators. Reports may be obtained free of charge through the SEC's website at [www.sec.gov](http://www.sec.gov) or the SEDAR's website at [www.sedar.com](http://www.sedar.com) and through the Company's website at [www.imax.com](http://www.imax.com) or by calling the Company's Investor Relations Department at 212-821-0100. No information included on the Company's website shall be deemed included or otherwise incorporated into this filing, except where expressly indicated.

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IMAX<sup>®</sup>, IMAX<sup>®</sup> Dome, IMAX<sup>®</sup> 3D, IMAX<sup>®</sup> 3D Dome, Experience It In IMAX<sup>®</sup>, *The IMAX Experience<sup>®</sup>*, *An IMAX Experience<sup>®</sup>*, *An IMAX 3D Experience<sup>®</sup>*, IMAX DMR<sup>®</sup>, DMR<sup>®</sup>, IMAX Enhanced<sup>™</sup>, IMAX nXos<sup>®</sup> and Films to the Fullest<sup>®</sup>, are trademarks and trade names of the Company or its subsidiaries that are registered or otherwise protected under laws of various jurisdictions.

The information posted on the Company's corporate and Investor Relations websites may be deemed material to investors. Accordingly, investors, media and others interested in the Company should monitor the Company's websites in addition to the Company's press releases, SEC and SEDAR filings and public conference calls and webcasts.

## OVERVIEW

IMAX is a premier global technology platform for entertainment and events. Through its proprietary software, theater architecture, patented intellectual property, and specialized equipment, IMAX offers a unique end-to-end solution to create superior, immersive content experiences for which the IMAX® brand is globally renowned. Top filmmakers, movie studios, artists, and creators utilize the cutting-edge visual and sound technology of IMAX to connect with audiences in innovative ways. As a result, IMAX is among the most important and successful global distribution platforms for domestic and international tentpole films and, increasingly, exclusive experiences ranging from live performances to interactive events with leading artists and creators.

The Company leverages its proprietary technology and engineering in all aspects of its business, which principally consists of the digital remastering of films and other content into the IMAX format ("IMAX DMR"®) and the sale or lease of premium IMAX theater systems ("IMAX Theater Systems").

IMAX Theater Systems are based on proprietary and patented image, audio, and other technology developed over the course of the Company's history since its founding in 1968. The customers for IMAX Theater Systems are principally theater exhibitors that operate commercial multiplex theaters, and, to a much lesser extent, museums, science centers and destination entertainment sites. The Company generally does not own the theaters in the IMAX network and is not an exhibitor, but instead sells or leases the IMAX Theater System to the exhibitor along with a license to use its trademarks.

As of March 31, 2022, there were 1,690 IMAX Theater Systems in 87 countries and territories, including 1,606 commercial multiplexes, 12 commercial destinations, and 72 institutional locations in the Company's global theater network. This compares to 1,652 IMAX Theater Systems in 84 countries and territories as of March 31, 2021, including 1,567 commercial multiplexes, 12 commercial destinations, and 73 institutional locations in the Company's global theater network. (See the table below under "IMAX Network and Backlog" for additional information on the composition of the IMAX network.)

The IMAX Theater System provides the Company's exhibitor customers with a combination of the following benefits:

- the ability to exhibit content that has undergone the IMAX DMR conversion process, which results in higher image and sound fidelity than conventional cinema experiences;
- advanced, high-resolution projectors with specialized equipment and automated theater control systems, which generate significantly more contrast and brightness than conventional theater systems;
- large screens and proprietary theater geometry, which result in a substantially larger field of view so that the screen extends to the edge of a viewer's peripheral vision and creates more realistic images;
- advanced sound system components, which deliver more expansive sound imagery and pinpointed origination of sound to any specific spot in an IMAX theater;
- specialized theater acoustics, which result in a four-fold reduction in background noise; and
- a license to the globally recognized IMAX brand.

In addition, certain movies shown in IMAX theaters are filmed using proprietary IMAX film cameras or IMAX certified digital cameras, which offer filmmakers customized guidance and a workflow process to provide further enhanced and differentiated image quality and an IMAX-exclusive film aspect ratio that delivers up to 26% more image onto a standard IMAX movie screen. In select IMAX theaters worldwide, movies filmed with IMAX cameras have an IMAX-exclusive 1.43 film aspect ratio, with up to 67% more image.

Together, these components cause audiences in IMAX theaters to feel as if they are a part of the on-screen action, creating a more intense, immersive, and exciting experience than a traditional theater.

As a result of the engineering and scientific achievements that are a hallmark of *The IMAX Experience*, the Company's exhibitor customers typically charge a premium for IMAX films over films exhibited in their other auditoriums. The premium pricing, combined with the higher attendance levels associated with IMAX films, generates incremental box office for the Company's exhibitor customers and for the movie studios releasing their films to the IMAX network. The incremental box office generated by IMAX films has helped establish IMAX as a key premium distribution and marketing platform for Hollywood blockbuster films and foreign local language movie studios.

As a premier global technology platform for entertainment and events, the Company strives to remain at the forefront of advancements in cinema technology. The Company offers a suite of IMAX Laser Theater Systems, which deliver increased resolution, sharper and brighter images, deeper contrast, and the widest range of colors available to filmmakers today. The Company further believes that its suite of IMAX Laser Theater Systems are helping facilitate the next major renewal and upgrade cycle for the global IMAX network.

In addition, the Company continues to evolve its platform to bring new, innovative events, and experiences to audiences worldwide. The Company has a connected IMAX theater footprint capable of delivering live, interactive content with low latency and superior sight and sound. As of March 31, 2022, 73 theaters in the IMAX network were configured to enable the streaming of live events with additional theaters expected to go-live throughout 2022.

In March 2022, in response to the ongoing conflict between Russia and Ukraine, the Company temporarily suspended its operations in Russia and Belarus. As of March 31, 2022, the current IMAX network includes 54 theaters in Russia, 9 theaters in Ukraine, and 1 theater in Belarus, and the Company's backlog includes 14 theaters in Russia, 1 theater in Ukraine, and 7 theaters in Belarus with a total value of \$25.6 million. In the first quarter of 2022, the Company recorded provisions for potential credit losses against substantially all of its receivables in Russia due to uncertainties associated with the ongoing conflict. These receivables relate to existing sale agreements. The Company is not party to any joint revenue sharing arrangements in these countries. In addition, exhibitors in Russia, Ukraine, and Belarus were placed on nonaccrual status for maintenance revenue and finance income in the first quarter of 2022. The Company continues to monitor the evolving impacts of this conflict and its effects on the global economy and the Company. (See Note 4 of Notes to Condensed Consolidated Financial Statements and "Risk Factors - The Company conducts business internationally, which exposes it to uncertainties and risks that could negatively affect its operations, sales, and future growth prospects." in Part II, Item 1A in this report.)

### **IMPACT OF COVID-19 PANDEMIC**

The impact of the COVID-19 pandemic is complex and continuously evolving, resulting in significant disruption to the Company's business and the global economy. At various points during the pandemic, authorities around the world imposed measures intended to control the spread of COVID-19, including stay-at-home orders and restrictions on large public gatherings, which caused movie theaters in countries around the world to temporarily close, including the IMAX theaters in those countries. As a result of these theater closures, movie studios postponed the theatrical release of most films originally scheduled for release in 2020 and early 2021, including many of the films scheduled to be shown in IMAX theaters, while several other films were released directly or concurrently to streaming platforms. Beginning in the third quarter of 2020, stay-at-home orders and capacity restrictions were lifted in many key markets and movie theaters throughout the IMAX network gradually reopened. However, following the emergence of the Omicron variant and the rise of COVID-19 cases in China in the first quarter of 2022, the Chinese government reinstated capacity restrictions and safety protocols on large public gatherings, leading to the temporary closure of theaters in several cities. As of April 26, 2022, approximately 65% of the theaters in Greater China were open at various capacities, up from 52% as of March 31, 2022.

For the three months ended March 31, 2022, gross box office ("GBO") generated by IMAX films totaled \$173.2 million, surpassing the total for the same period in 2021 by \$63.0 million (57%). Although GBO results during the first quarter of 2022 were somewhat impacted by the COVID-related theater closures in China, management remains encouraged by the overall positive trend in box office results and believes it indicates that moviegoers are returning to theaters, and in particular IMAX theaters, where and when theaters are open and they feel safe. Management is further encouraged by the return of the prevalence of exclusive theatrical windows and the strong pipeline of Hollywood movies scheduled to be released for theatrical exhibition throughout the remainder of 2022. However, the impact of the COVID-19 pandemic on the Company's business and financial results will continue to depend on numerous evolving factors that cannot be accurately predicted and that will vary by jurisdiction and market, including the duration and scope of the pandemic, the emergence of new and the spread of existing variants of the virus, the progress made on administering vaccines and developing treatments and the effectiveness of such vaccines and treatments, the continuing impact of the pandemic on global economic conditions and ongoing government responses to the pandemic, which could lead to further theater closures, theater capacity restrictions and/or delays in the release of films.

(See "Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods" in Part II, Item 1A in this report.)

## SOURCES OF REVENUE

For the presentation of MD&A, the Company has organized its reportable segments into the following three categories: (i) IMAX Technology Network; (ii) IMAX Technology Sales and Maintenance; and (iii) Film Distribution and Post-Production. Within these three categories are the Company's following reportable segments: (i) IMAX DMR; (ii) Joint Revenue Sharing Arrangements ("JRSA"); (iii) IMAX Systems; (iv) IMAX Maintenance; (v) Other Theater Business; (vi) Film Distribution; and (vii) Film Post-Production. The Company's activities that do not meet the criteria to be considered a reportable segment are disclosed within All Other.

### IMAX Technology Network

The IMAX Technology Network category earns revenue based on contingent box office receipts. Included in the IMAX Technology Network category are the IMAX DMR segment and contingent rent from the JRSA segment, which are each described in more detail below.

#### *IMAX DMR*

IMAX DMR is a proprietary technology that digitally remasters films into IMAX formats. In a typical IMAX DMR film arrangement, the Company receives a percentage of the box office receipts from a movie studio in exchange for converting a commercial film into IMAX DMR format and distributing it through the IMAX network. The fee earned by the Company in a typical IMAX DMR arrangement averages approximately 12.5% of box office receipts (i.e., GBO less applicable sales taxes), except for within Greater China, where the Company receives a lower percentage of net box office receipts for certain Hollywood films.

IMAX DMR digitally enhances the image resolution of films for projection on IMAX screens while maintaining or enhancing the visual clarity and sound quality to levels for which *The IMAX Experience* is known. In addition, the original soundtrack of a film to be exhibited in IMAX theaters is remastered for IMAX digital sound systems. Unlike the soundtracks played in conventional theaters, IMAX remastered soundtracks are uncompressed and full fidelity. IMAX sound systems use proprietary loudspeaker systems and proprietary surround sound configurations that ensure every theater seat is in an optimal listening position.

IMAX films also benefit from enhancements made by individual filmmakers exclusively for the IMAX release of the film. Collectively, the Company refers to these enhancements as "IMAX DNA". Filmmakers and movie studios have sought IMAX-specific enhancements in recent years to generate interest in and excitement for their films. Such enhancements include shooting films with IMAX cameras to increase the audience's immersion in the film and to take advantage of the unique dimensions of the IMAX screen by projecting the film in a larger aspect ratio that delivers up to 26% more image onto a standard IMAX movie screen. In select IMAX theaters worldwide, movies filmed with IMAX cameras have an IMAX-exclusive 1.43 film aspect ratio, with up to 67% more image.

Management believes that growth in international box office remains an important driver of growth for the Company. To support continued growth in international markets, the Company has sought to bolster its international film strategy, supplementing its slate of Hollywood films with appealing local language IMAX films released in select markets, particularly in China. The Company expects to announce additional local language IMAX films to be released to its global theater network in 2022.

The following table provides detailed information about the IMAX films that were newly released through the Company's global theater network during the three months ended March 31, 2022 and 2021:

	For the Three Months Ended	
	March 31,	
	2022	2021
IMAX Hollywood film releases	6	6
IMAX local language film releases:		
China	4	4
Japan	—	2
South Korea	1	—
France	1	—
India	1	—
Total IMAX local language film releases	7	6
Total IMAX film releases <sup>(1)</sup>	13	12

(1) For the three months ended March 31, 2022, the IMAX films that were newly released through the Company's global theater network include three with IMAX DNA (2021 — two).

The IMAX films distributed through the Company's global theater network during the three months ended March 31, 2022 include *The Batman*, *The Battle at Lake Changjin 2*, *Spider-Man: No Way Home*, *Jujutsu Kaisen 0*, and *Uncharted*.

In addition to the 13 IMAX films newly released through the Company's global theater network during the three months ended March 31, 2022, the Company has announced the following 15 additional titles scheduled to be released throughout the remainder of 2022:

Title	Studio	Scheduled Release Date <sup>(1)</sup>	IMAX DNA
<i>Morbius</i>	Sony Pictures	April 2022	None
<i>Ambulance</i>	Universal Pictures	April 2022	None
<i>Fantastic Beasts: The Secrets of Dumbledore</i>	Warner Bros. Pictures	April 2022	None
<i>Doctor Strange In The Multiverse of Madness</i>	Walt Disney Studios	May 2022	Filmed in IMAX
<i>Top Gun: Maverick</i>	Paramount Pictures	May 2022	Filmed in IMAX
<i>Jurassic World: Dominion</i>	Universal Pictures	June 2022	None
<i>Lightyear</i>	Walt Disney Studios	June 2022	Expanded Aspect Ratio
<i>Minions: The Rise Of Gru</i>	Universal Pictures	July 2022	None
<i>Thor: Love &amp; Thunder</i>	Walt Disney Studios	July 2022	Filmed in IMAX
<i>Nope</i>	Universal Pictures	July 2022	Filmed in IMAX
<i>Bullet Train</i>	Sony Pictures	July 2022	None
<i>Black Adam</i>	Warner Bros. Pictures	October 2022	None
<i>Black Panther 2: Wakanda Forever</i>	Walt Disney Studios	November 2022	TBD
<i>Creed 3</i>	MGM	November 2022	Filmed in IMAX
<i>Avatar 2</i>	Walt Disney Studios	December 2022	TBD

(1) The scheduled release dates in the table above are subject to change, including as a result of the impact of the COVID-19 pandemic, may vary by territory, and may not reflect the date(s) of limited premiere events. (See "Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods" in Part II, Item 1A in this report.)

The Company remains in active negotiations with all major Hollywood studios for additional films to fill out its short- and long-term film slate for the IMAX network.

The JRSA segment provides IMAX Theater Systems to exhibitors through joint revenue sharing arrangements. Under the traditional form of these arrangements, the Company provides the IMAX Theater System under a long-term lease in which the Company assumes the majority of the equipment and installation costs. In exchange for its upfront investment, the Company earns rent based on a percentage of contingent box office receipts and, in some cases, concession revenues, rather than requiring the customer to pay a fixed upfront fee or annual minimum payments. Rental payments from the customer are required throughout the term of the arrangement and are due either monthly or quarterly. The Company retains title to the IMAX Theater System equipment components throughout the lease term, and the equipment is returned to the Company at the conclusion of the arrangement.

Under certain other joint revenue sharing arrangements, known as hybrid arrangements, the customer is responsible for making fixed upfront payments prior to the delivery and installation of the IMAX Theater System in an amount that is typically half of what the Company would receive from a typical sale transaction. As with a traditional joint revenue sharing arrangement, the customer also pays the Company a percentage of contingent box office receipts over the term of the arrangement, although this percentage is typically half that of a traditional joint revenue sharing arrangement. For hybrid joint revenue sharing arrangements that take the form of a lease, the contingent rent is reported within the IMAX Technology Network, while the fixed upfront payment is recorded as revenue within IMAX Technology Sales and Maintenance, as discussed below. For hybrid joint revenue sharing arrangements that take the form of a sale, see the discussion below under IMAX Technology Sales and Maintenance.

Under most joint revenue sharing arrangements (both traditional and hybrid), the initial non-cancellable term is 10 years or longer and is renewable by the customer for one to two additional terms of between three to five years. The Company has the right to remove the equipment for non-payment or other defaults by the customer. The contracts are non-cancellable by the customer unless the Company fails to perform its obligations.

The revenue earned from customers under the Company's joint revenue sharing arrangements can vary from quarter-to-quarter and year-to-year based on a number of factors including film performance, the mix of theater system configurations, the timing of installation of IMAX Theater Systems, the nature of the arrangement, the location, size and management of the theater and other factors specific to individual arrangements.

Joint revenue sharing arrangements also require IMAX to provide maintenance and extended warranty services to the customer over the term of the lease in exchange for a separate fixed annual fee. These fees are reported within IMAX Technology Sales and Maintenance, as discussed below.

Joint revenue sharing arrangements have been an important factor in the expansion of the Company's commercial theater network. Joint revenue sharing arrangements allow commercial theater exhibitors to install IMAX Theater Systems without the significant initial capital investment required in a sale or sales-type lease arrangement. Joint revenue sharing arrangements drive recurring cash flows and earnings for the Company as customers under these arrangements pay the Company a portion of their ongoing box office receipts. The Company funds its investment in equipment for joint revenue sharing arrangements through cash flows from operations. As of March 31, 2022, the Company had 915 theaters under joint revenue sharing arrangements in its global commercial multiplex theater network, a 2% increase as compared to the 896 theaters as of March 31, 2021. The Company also had contracts in backlog for 316 theaters under joint revenue sharing arrangements as of March 31, 2022, including 92 upgrades to existing theater locations and 224 new theater locations.

#### **IMAX Technology Sales and Maintenance**

The IMAX Technology Sales and Maintenance category earns revenue principally from the sale or sales-type lease of IMAX Theater Systems, as well as from the maintenance of IMAX Theater Systems. To a lesser extent, the IMAX Technology Sales and Maintenance category also earns revenue from certain hybrid joint revenue sharing arrangements and certain ancillary theater business activities. These activities are described in more detail below under the captioned section for each respective segment.



## *IMAX Systems*

The IMAX Systems segment provides IMAX Theater Systems to exhibitors through sale arrangements or long-term lease arrangements that for accounting purposes are classified as sales-type leases. Under these arrangements, in exchange for providing the IMAX Theater System, the Company earns initial fees and ongoing consideration, which can include fixed annual minimum payments and contingent fees in excess of the minimum payments, as well as maintenance and extended warranty fees (see “IMAX Maintenance” below). The initial fees vary depending on the system configuration and location of the theater. Initial fees are paid to the Company in installments between the time of signing the arrangement and the time of system installation, which is when the total of these fees, in addition to the present value of future annual minimum payments, are recognized as revenue. Finance income is recognized over the term of a financed sale or sales-type lease arrangement. In addition, in sale arrangements, an estimate of the contingent fees that may become due if certain annual minimum box office receipt thresholds are exceeded is recorded as revenue in the period when the sale is recognized and is adjusted in future periods based on actual results and changes in estimates. Such variable consideration is only recognized on sales transactions to the extent the Company believes there is not a risk of significant revenue reversal.

In sale arrangements, title to the IMAX Theater System equipment generally transfers to the customer. However, in certain instances, the Company retains title or a security interest in the equipment until the customer has made all payments required by the agreement or until certain shipment events for the equipment have occurred. In a sales-type lease arrangement, title to the IMAX Theater System equipment remains with the Company. The Company has the right to remove the equipment for non-payment or other defaults by the customer.

The revenue earned from customers under the Company’s theater system sale or lease agreements varies from quarter-to-quarter and year-to-year based on a number of factors, including the number and mix of theater system configurations sold or leased, the timing of installation of the IMAX Theater Systems, the nature of the arrangement and other factors specific to individual contracts.

### *Joint Revenue Sharing Arrangements – Fixed Fees*

Under certain joint revenue sharing arrangements, known as hybrid arrangements, the customer is responsible for making fixed upfront payments prior to the delivery and installation of the IMAX Theater System in an amount that is typically half of what the Company would receive from a typical sale transaction. For hybrid joint revenue sharing arrangements that take the form of a lease, the contingent rent is reported within the IMAX Technology Network, as discussed above, while the fixed upfront payment is reported within IMAX Technology Sales and Maintenance.

### *IMAX Maintenance*

IMAX Theater System arrangements also include a requirement for the Company to provide maintenance services over the life of the arrangement in exchange for an extended warranty and annual maintenance fee paid by the exhibitor. Under these arrangements, the Company provides preventative and emergency maintenance services to ensure that each presentation is up to the highest IMAX quality standard. Annual maintenance fees are paid throughout the duration of the term of the theater agreements.

### *Other Theater Business*

The Other Theater Business segment principally includes after-market sales of IMAX Theater System parts and 3D glasses.

## **Film Distribution and Post-Production**

Through its Film Distribution segment, the Company distributes large-format documentary films, primarily to institutional theaters. The Company receives as its distribution fee either a fixed amount or a fixed percentage of the theater box office receipts and following the recoupment of its costs, is typically entitled to receive an additional percentage of gross revenues as participation revenues. In the first quarter of 2022, the Company released an IMAX documentary film entitled *IMAX presents The Last Glaciers*.

In addition, the Company continues to evolve its platform to bring new, innovative events and experiences to audiences worldwide. The Company has a connected IMAX theater footprint capable of delivering live, interactive content with low latency and superior sight and sound. As of March 31, 2022, 73 theaters in the IMAX network were configured to enable the streaming of live events with additional theaters expected to go-live throughout 2022.

In the first quarter of 2022, the Company distributed *IMAX Presents Kanye West: Donda Experience Performance 2 22 22*, a one-night-only live concert performing his Grammy-nominated album *Donda*, along with a listening party of his highly anticipated new album *Donda 2*, to 60 IMAX theaters across the United States and Canada. Also, in the first quarter of 2022, the Company partnered with Disney for a live Q&A with director and producer Peter Jackson, streaming to 68 IMAX theaters in North America, followed by a special screening of *The Beatles: Get Back – The Rooftop Concert*, which was later released across the IMAX global network.

The Company continues to believe that the IMAX network serves as a valuable platform to launch and distribute original content.

Through its Film Post-Production segment, the Company provides film post-production and quality control services for large-format films, whether produced by IMAX or third parties, and digital post-production services.

#### **All Other**

In September 2018, the Company launched IMAX Enhanced™, an initiative to bring *The IMAX Experience* into the home, in partnership with audio leader DTS (an Xperi subsidiary). IMAX Enhanced provides end-to-end premium technology across streaming content and best-in-class entertainment devices, offering consumers high-fidelity playback of image and sound in the home and beyond, including the following features:

- IMAX's expanded aspect ratio, which is available on select titles and streaming platforms, including Disney+ and features the full scale and scope of *The IMAX Experience* as the filmmakers intended;
- IMAX's proprietary remastering technology, which produces a more vivid, higher-fidelity 4K HDR images on today's best televisions; and
- IMAX signature sound, which is specially recreated and calibrated for the home by DTS to unlock more immersive audio.

To be certified as IMAX Enhanced, leading consumer electronics manufacturers spanning 4K/8K televisions, projectors, A/V receivers, loudspeakers, soundbars and smartphones must meet a carefully prescribed set of audiovisual performance standards, set by a certification committee of IMAX and DTS engineers, along with some of Hollywood's leading technical specialists.

At present, certified global device partners include Sony Electronics, Hisense, TCL, LG, Phillips, Xiaomi, Sound United and Honor, among others. As of March 31, 2022, more than 200 IMAX Enhanced titles have been released across five of the biggest streaming platforms worldwide, including Disney+, Sony Bravia CORE, Tencent Video, iQiyi and Rakuten TV. Over 10 million IMAX Enhanced certified devices are estimated to be in the market today.

The Company's collaboration with Disney, which was announced in November 2021, allows fans to stream 14 Marvel titles in IMAX's Expanded Aspect Ratio at home on Disney+. The 14 titles available on Disney+ include *Shang-Chi and The Legend of The Ten Rings and Eternals*, as well as *Iron Man*, *Guardians of the Galaxy*, *Guardians of the Galaxy Vol. 2*, *Captain America: Civil War*, *Doctor Strange*, *Thor: Ragnarok*, *Black Panther*, *Avengers: Infinity War*, *Ant-Man and The Wasp*, *Captain Marvel*, *Avengers: Endgame*, and *Black Widow* (content availability varies by region). The launch of IMAX Enhanced on Disney+ provides strong brand exposure for IMAX by expanding the Company's in-home entertainment footprint to more than 80 million subscribers.

IMAX Enhanced and the collaboration with Disney is part of the Company's next evolutionary step to grow beyond Hollywood blockbusters and extend the IMAX brand and technology further into the streaming environment.

In the first quarter of 2022, the Company's internal reporting was updated to reclassify the results of IMAX Enhanced out of the New Business Initiatives segment and into All Other for segment reporting purposes. IMAX Enhanced was the only component of the New Business Initiatives segment.

All Other also includes revenues from the one owned and operated IMAX theater in Sacramento, California; a commercial arrangement with one theater resulting in the sharing of profits and losses; the provision of management services to three other theaters; renting the Company's proprietary 2D and 3D large-format film and digital cameras to third-party production companies; and also offering production advice and technical assistance to both documentary and Hollywood filmmakers.

## IMAX NETWORK AND BACKLOG

### IMAX Network

The following table provides detailed information about the IMAX network by type and geographic location as of March 31, 2022 and 2021:

	March 31, 2022				March 31, 2021			
	Commercial Multiplex	Commercial Destination	Institutional	Total	Commercial Multiplex	Commercial Destination	Institutional	Total
United States	362	4	27	393	365	4	27	396
Canada	40	1	7	48	39	1	7	47
Greater China <sup>(1)</sup>	776	—	15	791	734	—	16	750
Western Europe	115	4	8	127	116	4	8	128
Asia (excluding Greater China)	122	2	2	126	123	2	2	127
Russia/the CIS & Ukraine <sup>(2)</sup>	70	—	—	70	68	—	—	68
Latin America <sup>(3)</sup>	53	1	11	65	51	1	11	63
Rest of the World	68	—	2	70	71	—	2	73
Total <sup>(4)</sup>	1,606	12	72	1,690	1,567	12	73	1,652

(1) Greater China includes China, Hong Kong, Taiwan, and Macau.

(2) In addition to Russia, the CIS includes Azerbaijan, Belarus, Kazakhstan, and Kyrgyzstan. As of March 31, 2022, the IMAX network includes 54 theaters in Russia, 9 theaters in Ukraine, and 1 theater in Belarus.

(3) Latin America includes South America, Central America and Mexico.

(4) Period-to-period changes in the table above are reported net of the effect of permanently closed theaters.

The Company currently believes that over time its commercial multiplex network could grow to approximately 3,318 IMAX theaters worldwide from the 1,606 theaters in the network as of March 31, 2022. The Company believes that the majority of its future growth will come from international markets. As of March 31, 2022, 74% of IMAX Theater Systems in the global commercial multiplex network were located within international markets (defined as all countries other than the United States and Canada), compared to 73% as of March 31, 2021. Revenues and GBO derived from international markets continue to exceed revenues and GBO from the United States and Canada. Risks associated with the Company's international business, including Russia, are outlined in "Risk Factors – The Company conducts business internationally, which exposes it to uncertainties and risks that could negatively affect its operations, sales and future growth prospects" in Part II, Item 1A in this report.

Greater China is the Company's largest market, measured by revenues, with approximately 44% of consolidated revenue generated from its Greater China operations in the year ended December 31, 2021. As of March 31, 2022, the Company had 791 theaters operating in Greater China with an additional 208 theaters in backlog. The Company's backlog in Greater China represents 43% of its total current backlog, including upgrades in system type. The Company's largest single international partnership is in China with Wanda Film ("Wanda"). As of March 31, 2022, through the Company's partnership with Wanda, there are 372 IMAX Theater Systems operational in Greater China of which 358 are under the parties' joint revenue sharing arrangements.

(See "Risk Factors – The Company faces risks in connection with its significant presence in China and the continued expansion of its business there," "Risk Factors – General political, social and economic conditions can affect the Company's business by reducing both revenues generated from existing IMAX Theater Systems and the demand for new IMAX Theater Systems," and "Risk Factors – The Company may not convert all of its backlog into revenue and cash flows" in Part I, Item 1A of the Company's 2021 Form 10-K.)

(See "Management's Discussion and Analysis of Financial Condition and Results of Operations – Impact of COVID-19 Pandemic" and "Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods" in Part II, Item 1A of this report.)

The following tables provide detailed information about the Company's global commercial multiplex theater network by arrangement type and geographic location as of March 31, 2022 and 2021:

	<b>March 31, 2022</b>			
	<b>Commercial Multiplex Theaters in IMAX Network</b>			
	<b>Traditional JRSA</b>	<b>Hybrid JRSA</b>	<b>Sale / Sales- type Lease</b>	<b>Total</b>
Domestic Total (United States & Canada)	273	6	123	402
International:				
Greater China	397	112	267	776
Asia (excluding Greater China)	33	2	87	122
Western Europe	46	28	41	115
Russia/the CIS & Ukraine <sup>(1)</sup>	—	—	70	70
Latin America	2	—	51	53
Rest of the World	16	—	52	68
<b>International Total</b>	<b>494</b>	<b>142</b>	<b>568</b>	<b>1,204</b>
<b>Worldwide Total<sup>(2)</sup></b>	<b>767</b>	<b>148</b>	<b>691</b>	<b>1,606</b>
	<b>March 31, 2021</b>			
	<b>Commercial Multiplex Theaters in IMAX Network</b>			
	<b>Traditional JRSA</b>	<b>Hybrid JRSA</b>	<b>Sale / Sales- type Lease</b>	<b>Total</b>
Domestic Total (United States & Canada)	275	5	124	404
International:				
Greater China	380	108	246	734
Asia (excluding Greater China)	33	2	88	123
Western Europe	48	28	40	116
Russia/the CIS & Ukraine <sup>(1)</sup>	—	—	68	68
Latin America	1	—	50	51
Rest of the World	16	—	55	71
<b>International Total</b>	<b>478</b>	<b>138</b>	<b>547</b>	<b>1,163</b>
<b>Worldwide Total<sup>(2)</sup></b>	<b>753</b>	<b>143</b>	<b>671</b>	<b>1,567</b>

(1) In addition to Russia, the CIS includes Azerbaijan, Belarus, Kazakhstan, and Kyrgyzstan. As of March 31, 2022, the IMAX network includes 54 theaters in Russia, 9 theaters in Ukraine, and 1 theater in Belarus.

(2) Period-to-period changes in the tables above are reported net of the effect of permanently closed theaters.

## Backlog

The following table provides detailed information about the Company's backlog as of March 31, 2022 and 2021:

	March 31, 2022				March 31, 2021			
	Number of Systems		Dollar Value (in thousands)		Number of Systems		Dollar Value (in thousands)	
	New	Upgrade	New	Upgrade	New	Upgrade	New	Upgrade
Sale and sales-type lease arrangements	159	12	\$ 182,246	\$ 11,252	179	10	\$ 206,238	\$ 13,135
Hybrid JRSA	125	6	91,001	4,785	138	6	98,423	4,785
Traditional JRSA	99 <sup>(1)</sup>	86 <sup>(1)</sup>	200 <sup>(2)</sup>	4,500 <sup>(2)</sup>	110 <sup>(1)</sup>	78 <sup>(1)</sup>	200 <sup>(2)</sup>	5,500 <sup>(2)</sup>
	<u>383<sup>(3)</sup></u>	<u>104<sup>(3)</sup></u>	<u>\$ 273,447<sup>(3)</sup></u>	<u>\$ 20,537<sup>(3)</sup></u>	<u>427</u>	<u>94</u>	<u>\$ 304,861</u>	<u>\$ 23,420</u>

- (1) Includes 43 IMAX Theater Systems (2021 — 44) where the customer has the option to convert from a joint revenue sharing arrangement to a sale arrangement.
- (2) The consideration owed under joint revenue sharing arrangements, which are accounted for as leases, is typically contingent on the box office receipts earned by the exhibitor. Accordingly, such arrangements do not usually have a dollar value in backlog; however, certain joint revenue sharing arrangements provide for contracted upfront payments and therefore carry a backlog value based on those payments.
- (3) As of March 31, 2022, the Company's backlog includes 14 theaters in Russia, 1 theater in Ukraine, and 7 theaters in Belarus with a total value of \$25.6 million.

The number of IMAX Theater Systems in backlog reflects the minimum number of commitments under signed contracts. The dollar value fluctuates depending on the number of new arrangements signed from year-to-year, which adds to backlog and the installation and acceptance of IMAX Theater Systems and the settlement of contracts, both of which reduce backlog. The dollar value of backlog typically represents the fixed contracted revenue under signed IMAX Theater System sale and lease agreements that the Company expects to recognize as revenue upon installation and acceptance of the associated system, as well as an estimate of variable consideration in sale arrangements. The value of backlog does not include amounts allocated to maintenance and extended warranty revenues or revenue from theaters in which the Company has an equity interest, operating leases, and long-term conditional theater commitments. The Company believes that the contractual obligations for IMAX Theater System installations that are listed in backlog are valid and binding commitments.

From time to time, in the normal course of its business, the Company will have customers who are unable to proceed with an IMAX Theater System installation for a variety of reasons, including the inability to obtain certain consents, approvals or financing. Once the determination is made that the customer will not proceed with installation, the agreement with the customer is terminated or amended. If the agreement is terminated, once the Company and the customer are released from all their future obligations under the agreement, all or a portion of the initial rents or fees that the customer previously made to the Company are recognized as revenue.

Certain of the Company's contracts contain options for the customer to elect to upgrade system type during the term or to alter the contract structure (for example, from a joint revenue sharing arrangement to a sale) after signing, but before installation. Current backlog information reflects all known elections.

The following tables provide detailed information about the Company's backlog by arrangement type and geographic location as of March 31, 2022 and 2021:

	March 31, 2022			
	IMAX Theater System Backlog			
	Traditional JRSA	Hybrid JRSA	Sale / Sales- type Lease	Total
Domestic Total (United States & Canada)	124	2	8	134
International:				
Greater China	41	99	68	208
Asia (excluding Greater China)	3	16	35	54
Western Europe	11	12	5	28
Russia/the CIS & Ukraine <sup>(1)</sup>	—	—	23	23
Latin America	3	—	6	9
Rest of the World	3	2	26	31
International Total	61	129	163	353
Worldwide Total	185	131	171	487 <sup>(2)</sup>
	March 31, 2021			
	IMAX Theater System Backlog			
	Traditional JRSA	Hybrid JRSA	Sale / Sales- type Lease	Total
Domestic Total (United States & Canada)	120	3	8	131
International:				
Greater China	46	112	90	248
Asia (excluding Greater China)	5	15	30	50
Western Europe	11	12	5	28
Russia/the CIS & Ukraine	—	1	22	23
Latin America	3	—	8	11
Rest of the World	3	1	26	30
International Total	68	141	181	390
Worldwide Total	188	144	189	521 <sup>(3)</sup>

(1) In addition to Russia, the CIS includes Azerbaijan, Belarus, Kazakhstan, and Kyrgyzstan. As of March 31, 2022, the Company's backlog includes 14 theaters in Russia, 1 theater in Ukraine, and 7 theaters in Belarus with a total value of \$25.6 million.

(2) Includes 180 new IMAX Laser Theater Systems and 104 upgrades of existing locations to IMAX Laser Theater Systems.

(3) Includes 158 new IMAX Laser Theater Systems and 94 upgrades of existing locations to IMAX Laser Theater Systems.

Approximately 72% of IMAX Theater System arrangements in backlog as of March 31, 2022 are scheduled to be installed in international markets (2021 — 75%).

(See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Impact of COVID-19 Pandemic” and “Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods” in Part II, Item 1A of this report.)

## Signings and Installations

The following tables provide detailed information about IMAX Theater System signings and installations for the three months ended March 31, 2022 and 2021:

	For the Three Months Ended	
	March 31,	
	2022	2021
<b>Theater System Signings:</b>		
New IMAX Theater Systems		
Sale and sales-type lease arrangements	4	6
Hybrid JRSA	1	—
Traditional JRSA	2	—
Total new IMAX Theater Systems	7	6
Upgrades of IMAX Theater Systems	—	—
Total IMAX Theater System signings	7	6
<b>Theater System Installations:</b>		
New IMAX Theater Systems <sup>(1)</sup>		
Sale and sales-type lease arrangements	4	2
Hybrid JRSA	2	2
Traditional JRSA	6	5
Total new IMAX Theater Systems	12	9
Upgrades of IMAX Theater Systems	2	3
Total IMAX Theater System installations	14	12

(1) Includes two IMAX Xenon Theater Systems under traditional joint revenue sharing arrangements that were relocated from their original locations (2021 — nil). When a theater system under a sale or sales-type lease arrangement is relocated, the amount of revenue earned by the Company may vary from transaction-to-transaction and is usually less than the amount earned for a new sale. In certain situations when a theater system is relocated, the original location is upgraded to an IMAX Laser Theater System.

(See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Impact of COVID-19 Pandemic” and “Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods” in Part II, Item 1A of this report.)

## RESULTS OF OPERATIONS

The Company's business and future prospects are evaluated by Richard L. Gelfond, its Chief Executive Officer ("CEO"), using a variety of factors and financial and operational metrics including: (i) IMAX box office performance and the securing of new IMAX DMR films and other events to be exhibited in IMAX theaters; (ii) the signing, installation, and financial performance of theater system arrangements, particularly those involving laser-based projection systems; (iii) the success of the Company's investments in business evolution and brand extensions, including the distribution of live events to the IMAX network and IMAX Enhanced, (iv) revenues and gross margins earned by the Company's segments, as discussed below; (v) consolidated earnings from operations, as adjusted for unusual items; (vi) the continuing ability to invest in and improve the Company's technology to enhance the differentiation of *The IMAX Experience* versus other out-of-home experiences; (vii) the overall execution, reliability, and consumer acceptance of *The IMAX Experience*; and (viii) short- and long-term cash flow projections.

The CEO is the Company's Chief Operating Decision Maker ("CODM"), as such term is defined under United States Generally Accepted Accounting Principles ("U.S. GAAP"). The CODM, along with other members of management, assess segment performance based on segment revenues and gross margins. Selling, general and administrative expenses, research and development costs, the amortization of intangible assets, provision for (reversal of) current expected credit losses, certain write-downs, interest income, interest expense, and income tax (expense) benefit are not allocated to the Company's segments.

The Company's reportable segments are organized into the following three categories: (i) IMAX Technology Network; (ii) IMAX Technology Sales and Maintenance; and (iii) Film Distribution and Post-Production. Within these categories are the Company's following reportable segments: (i) IMAX DMR; (ii) JRSA; (iii) IMAX Systems, (iv) IMAX Maintenance; (v) Other Theater Business; (vi) Film Distribution; and (vii) Film Post-Production, each of which are described above under "Sources of Revenue." The Company's activities that do not meet the criteria to be considered a reportable segment are disclosed within All Other. This categorization is consistent with how the CODM reviews the financial performance of the Company and makes strategic decisions regarding resource allocation and investments to meet long-term business goals. Management believes that a discussion and analysis based on the three categories listed above is significantly more relevant and useful to readers, as the Company's Condensed Consolidated Statements of Operations captions combine results from several segments.

In the first quarter of 2022, the Company's internal reporting was updated to reclassify the results of IMAX Enhanced out of the New Business Initiatives segment and into All Other for segment reporting purposes. IMAX Enhanced was the only component of the New Business Initiatives segment. Prior period comparatives have been reclassified to conform with the current period presentation.

### Results of Operations for the Three Months Ended March 31, 2022 and 2021

#### *Net Loss Attributable to Common Shareholders*

In the first quarter of 2022, the Company recorded a net non-cash provision of \$6.9 million, or \$0.12 per share, due to an increase in reserves given the uncertainty of collecting receivables in Russia. This provision was taken in an exercise of caution due to the ongoing conflict in Ukraine and covers substantially all of the Company's net receivable exposure in the Russian market. Including this provision, net loss attributable to common shareholders and adjusted net loss attributable to common shareholders\* was (\$13.6) million, or (\$0.23) per share, and (\$8.2) million, or (\$0.14) per share, respectively. Excluding the impact of this provision, net loss attributable to common shareholders\* was (\$6.7) million, or (\$0.11) per share, compared to (\$14.8) million, or (\$0.25) per share, in the prior year and adjusted net loss attributable to common shareholders\* was (\$1.3) million, or (\$0.02) per share, compared to (\$14.8) million, or (\$0.25) per share, in the prior year. Over the past five years, Russia has represented on average approximately 3% of the GBO generated by IMAX films.

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\* See "Non-GAAP Financial Measures" below for a description of this non-GAAP financial measure and a reconciliation to the most comparable GAAP amount.



### Revenues and Gross Margin (Margin Loss)

During the three months ended March 31, 2022, the Company's revenues and gross margin increased by \$21.3 million (55%) and \$14.5 million (84%), respectively, principally due to the strength of the GBO performance of the IMAX Technology Network through the distribution of films such as *The Batman*, *The Battle at Lake Changjin 2*, *Spider-Man: No Way Home*, *Jujutsu Kaisen 0*, and *Uncharted*. Also contributing to the improvement versus the prior year is a \$4.0 million (106%) improvement in IMAX Maintenance gross margin, due to the global reopening of the IMAX theater network as the theatrical exhibition industry continues to recover from the COVID-19 pandemic, as well as a higher level of IMAX Theater System installations.

The following table presents the Company's revenue and gross margin (margin loss) by category and reportable segment for the three months ended March 31, 2022 and 2021:

	Revenue		Gross Margin (Margin Loss)	
	2022	2021	2022	2021
<i>(In thousands of U.S. Dollars)</i>				
<b>IMAX Technology Network</b>				
IMAX DMR	\$ 19,564	\$ 11,944	\$ 13,557	\$ 8,251
JRSA, contingent rent	12,643	8,359	6,198	1,883
	<u>32,207</u>	<u>20,303</u>	<u>19,755</u>	<u>10,134</u>
<b>IMAX Technology Sales and Maintenance</b>				
IMAX Systems <sup>(1)</sup>	8,618	5,899	3,976	3,012
JRSA, fixed fees	990	1,738	252	156
IMAX Maintenance	14,942	8,906	7,870	3,823
Other Theater Business <sup>(2)</sup>	670	437	100	63
	<u>25,220</u>	<u>16,980</u>	<u>12,198</u>	<u>7,054</u>
<b>Film Distribution and Post-Production</b>	<u>1,406</u>	<u>813</u>	<u>(861)</u>	<u>(25)</u>
Sub-total for reportable segments	58,833	38,096	31,092	17,163
All Other <sup>(3)</sup>	1,203	658	679	118
Total	<u>\$ 60,036</u>	<u>\$ 38,754</u>	<u>\$ 31,771</u>	<u>\$ 17,281</u>

(1) The revenue from this segment includes the initial upfront payments and the present value of fixed minimum payments from sale and sales-type lease arrangements of IMAX Theater Systems, as well as the present value of estimated variable consideration from sales of IMAX Theater Systems. To a lesser extent, the revenue from this segment also includes finance income associated with these revenue streams.

(2) The revenue from this segment principally includes after-market sales of IMAX Theater System parts and 3D glasses.

(3) All Other includes the results from IMAX Enhanced and other ancillary activities. In the first quarter of 2022, the Company's internal reporting was updated to reclassify the results of IMAX Enhanced out of the New Business Initiatives segment into All Other for segment reporting purposes. Prior period comparatives have been revised to conform with the current period presentation.

### IMAX Technology Network

IMAX Technology Network results are influenced by the level of commercial success and box office performance of the films released to the network, as well as other factors including the timing of the films released, the length of the theatrical distribution window, the take rates under the Company's DMR and joint revenue sharing arrangements and the level of marketing spend associated with the films released in the year. Other factors impacting IMAX Technology Network results include fluctuations in the value of foreign currencies versus the U.S. Dollar.

For the three months ended March 31, 2022, IMAX Technology Network revenues and gross margin increased by \$11.9 million (59%) and \$9.6 million (95%), respectively, when compared to the same period in 2021 principally due to the strength of the GBO performance of the IMAX Technology Network. Although overall IMAX Technology Network revenues and gross margin for the current period were significantly better than the prior year, the results were somewhat impacted by the temporary closure of theaters in several cities in China in March 2022 following the emergence of the Omicron variant and the resulting rise in COVID-19 cases. See below for separate discussions of IMAX DMR and JRSA contingent rent segment results for the period.

## *IMAX DMR*

For the three months ended March 31, 2022, IMAX DMR revenues and gross margin increased by \$7.6 million (64%) and \$5.3 million (64%), respectively, when compared to the same period in 2021. These increases are primarily due to a \$63.0 million (57%) increase in GBO generated by IMAX films in the first quarter of 2022, from \$110.2 million to \$173.2 million. In the first quarter of 2022, GBO was generated by the exhibition of 23 films (13 new films and 10 carryovers). In the first quarter of 2021, GBO was generated by the exhibition of 18 films (12 new films and 6 carryovers) and the re-release of classic titles.

In addition to the level of revenues, IMAX DMR gross margin is also influenced by the costs associated with the films exhibited in the period, and can vary from period-to-period, particularly with respect to marketing expenses. For the three months ended March 31, 2022, marketing expenses were \$2.3 million, as compared to \$1.1 million during the same period in 2021.

### *Joint Revenue Sharing Arrangements – Contingent Rent*

For the three months ended March 31, 2022, JRSA contingent rent revenue and gross margin increased by \$4.3 million (51%) and \$4.3 million (229%), respectively, when compared to the same period in 2021. These increases are largely due to a \$27.0 million (41%) increase in GBO generated by theaters under joint revenue sharing arrangements in the first quarter of 2022 when compared to the same period in the prior year, from \$65.8 million to \$92.8 million.

In addition to the level of revenues, JRSA contingent rent margin is also influenced by the level of costs associated with such arrangements, such as depreciation expense related to the underlying theater systems and costs incurred to upgrade theater systems from IMAX Xenon Theater Systems to IMAX Laser Theater Systems, as well as advertising, marketing, and commission costs primarily for the launch of new theaters. The level of depreciation expense in a period relative to the prior year is generally a function of the growth of the theater network and the mix of theater system configurations in the network. For the three months ended March 31, 2022, JRSA gross margin included depreciation expense of \$5.5 million, which represents a \$0.2 million decrease as compared to \$5.7 million recorded in the same period of the prior year. The lower level of depreciation expense in the current period is due, in part, to the effect of lease term extensions entered into with exhibitor customers as a result of the COVID-19 pandemic, partially offset by incremental depreciation expense associated with a 2% increase in the number of theaters operating under joint revenue sharing arrangements. For the three months ended March 31, 2022, JRSA gross margin includes advertising, marketing, and commission costs of \$0.5 million, as compared to \$0.7 million in the same period of the prior year.

### *IMAX Technology Sales and Maintenance*

The primary drivers of IMAX Technology Sales and Maintenance results are the number of IMAX Theater Systems installed in a period, and the level of gross margin percentage earned on each installation, as well as the associated maintenance contracts that accompany each theater installation. The installation of IMAX Theater Systems in newly built theaters or multiplexes, which make up a large portion of the Company's theater system backlog, depends primarily on the timing of the construction of those projects, which is not under the Company's control.

For the three months March 31, 2022, IMAX Technology Sales and Maintenance revenue and gross margin increased by \$8.2 million (49%) and \$5.1 million (73%), respectively, when compared to the same period in the prior year. See below for separate discussions of IMAX Systems and IMAX Maintenance segment results for the period.

The following table provides detailed information about the mix of IMAX Theater Systems installed and recognized during the three months ended March 31, 2022 and 2021:

	For the Three Months Ended March 31,			
	2022		2021	
	Number of Systems	Revenue	Number of Systems	Revenue
<i>(In thousands of U.S. Dollars, except number of systems)</i>				
<b>New IMAX Theater Systems:</b>				
Sale and sales-type lease arrangements <sup>(1)</sup>	4	\$ 4,747	2	\$ 2,979
JRSA — hybrid	2	1,014	2	1,504
<b>Total new IMAX Theater Systems</b>	<b>6</b>	<b>5,761</b>	<b>4</b>	<b>4,483</b>
<b>IMAX Theater System upgrades:</b>				
Sale and sales-type lease arrangements	1	1,673	—	—
JRSA — hybrid	—	—	1	775
<b>Total upgraded IMAX Theater Systems</b>	<b>1</b>	<b>1,673</b>	<b>1</b>	<b>775</b>
<b>Total</b>	<b>7</b>	<b>\$ 7,434</b>	<b>5</b>	<b>\$ 5,258</b>

(1) The arrangement for the sale of an IMAX Theater System includes fixed upfront and ongoing consideration, including indexed annual minimum payment increases over the term of the arrangement, as well as an estimate of the contingent fees that may become due if certain annual minimum box office receipt thresholds are exceeded.

The average revenue per IMAX Theater System under sale and sales-type lease arrangements varies depending upon the number of IMAX Theater System commitments with a single respective exhibitor, an exhibitor's location and various other factors. The average revenue per full (i.e., excluding JRSA hybrid arrangements and relocations), new IMAX Theater System under sale and sales-type lease arrangements was \$1.2 million for the three months ended March 31, 2022, as compared to \$1.5 million during the same period of the prior year.

#### *IMAX Systems*

For the three months ended March 31, 2022, IMAX Systems revenue and gross margin increased by \$2.7 million (46%) and \$1.0 million (32%), respectively, when compared to the same period in the prior year. The higher level of revenue and gross margin is the result of three additional IMAX Theater System installations, including upgrades, in the current period under sale and sales-type lease arrangements. The overall increase in IMAX Systems revenues and gross margin is partially offset by the loss of \$0.2 million in Finance Income associated with theaters in Russia, Ukraine, and Belarus, which were placed on nonaccrual status due to the ongoing Russia-Ukraine conflict.

#### *IMAX Maintenance*

For the three months ended March 31, 2022, IMAX Maintenance segment revenues and gross margin increased by \$6.0 million (68%) and \$4.0 million (106%), respectively, when compared to the same period in the prior year, due to the global reopening of the IMAX theater network and the substantial resumption of normal operations throughout the theatrical exhibition industry as the theatrical exhibition industry continues to recover from the COVID-19 pandemic. The overall increase in IMAX Maintenance segment revenues and gross margin is partially offset by the loss of \$0.3 million in revenue associated with theaters in Russia, Ukraine, and Belarus, which were placed on nonaccrual status due to the ongoing Russia-Ukraine conflict.

Maintenance margins vary depending on the mix of theater system configurations in the theater network, volume-pricing related to larger relationships and the timing and the date(s) of installation and/or service.

#### *Film Distribution and Post-Production*

For the three months ended March 31, 2022, Film Distribution and Post-Production revenues increased by \$0.6 million (73%) while margin loss increased by \$0.8 million, when compared to the same period in the prior year. The margin loss in the first quarter of 2022 is primarily the result of costs incurred to market and distribute live events and documentary content during the period.

### ***Selling, General and Administrative Expenses***

For the three months ended March 31, 2022, total Selling, General and Administrative Expenses increased by \$5.0 million when compared to the same period in 2021. For the three months ended March 31, 2022, Selling, General and Administrative Expenses, excluding the impact of share-based compensation of \$5.7 million, were \$24.5 million as compared to \$20.3 million in the same period in the prior year, excluding share-based compensation expense of \$4.9 million, representing an increase of \$4.2 million. A portion of share-based compensation expense is recognized within Costs and Expenses Applicable to Revenues and Research and Development. (See Note 12 of Notes to Condensed Consolidated Financial Statements.)

The increase in Selling, General and Administrative Expenses is due to a higher level of business activity in the current period as the effects of the COVID-19 pandemic continue to subside, resulting in higher staff costs, marketing expenses, and facilities related expenses. Also influencing the comparison to the prior period are benefits from the Canada Emergency Wage Subsidy (“CEWS”) program that were recognized in the first quarter of 2021 and reduced Selling, General and Administrative Expenses by \$1.2 million.

### ***Research and Development***

A significant portion of the Company’s recent research and development efforts have been focused on its laser-based projection systems, which the Company believes present greater brightness and clarity, higher contrast, a wider color gamut and deeper blacks, consume less power and last longer than other digital projection technologies, and are capable of illuminating the largest screens in the IMAX network. To a lesser extent, the Company’s recent research and development efforts have also focused on image enhancement technology, developing technologies and systems to help bring additional interactivity to its IMAX theater network.

For the three months ended March 31, 2022, Research and Development expenses decreased by \$0.3 million (19%), when compared to the same period in the prior year.

The Company intends to continue research and development to further evolve its end-to-end technology. This includes bringing connectivity to the Company’s global theater network and experimenting with live and interactive events worldwide; developing new IMAX film cameras and certifying additional digital cameras; further improving its proprietary DMR process for the delivery of content for both theatrical and home entertainment; and further improving the reliability of its projectors, as well as enhancing the Company’s image and sound quality.

### ***Credit Loss Expense, Net***

For the three months ended March 31, 2022, the Company recorded current expected credit losses of \$7.2 million, principally due to reserves established against substantially all of its receivables in Russia due to uncertainties associated with the ongoing Russia-Ukraine conflict, partially offset by the reversal of provisions associated with the COVID-19 pandemic as the outlook for the theatrical exhibition industry in Domestic and Rest of World markets continues to improve. For the three months ended March 31, 2021, the Company recorded a provision for current expected credit losses of \$0.3 million.

Management’s judgments regarding expected credit losses are based on the facts available to management at the time that the Condensed Consolidated Financial Statements are prepared and involve estimates about the future. As a result, the Company’s judgments and associated estimates of credit losses may ultimately prove, with the benefit of hindsight, to be incorrect.

(See Notes 1 and 4 of Notes to Condensed Consolidated Financial Statements.)

### ***Realized and Unrealized Investment Gains***

In the first quarter of 2019, IMAX China (Hong Kong), Limited, a wholly-owned subsidiary of IMAX China, entered into a cornerstone investment agreement with Maoyan Entertainment (“Maoyan”) and purchased equity securities for \$15.2 million. In February 2021, IMAX China (Hong Kong), Limited sold all of its shares of Maoyan and recognized a gain of \$5.2 million.

### ***Interest Expense***

For the three months ended March 31, 2022, interest expense was \$1.7 million, representing a decrease of \$0.6 million (26%) when compared to interest expense of \$2.3 million during the same period of the prior year. This decrease is principally due to a lower level of indebtedness, partially offset by the expensing of \$0.4 million in unamortized deferred financing costs associated with lenders that are no longer parties to the Credit Agreement. (See Note 7 of Notes to Condensed Consolidated Financial Statements.)

## ***Income Taxes***

For the three months ended March 31, 2022, the Company recorded income tax expense of \$2.6 million (2021 — \$3.1 million). The Company's effective tax rate for the three months ended March 31, 2022 of (27.9)% differs from the Canadian statutory tax rate of 26.5% primarily due to the fact that the company recorded an additional \$5.0 million valuation allowance against deferred tax assets in jurisdictions where management cannot reliably forecast that sufficient future tax liabilities will arise in specific jurisdictions, which includes the impact of the COVID-19 pandemic. Accordingly, the tax benefit associated with the current period losses in these jurisdictions is not ultimately reflected in the Company's Condensed Consolidated Statements of Operations.

(See Note 11 of Notes to Condensed Consolidated Financial Statements.)

## ***Non-Controlling Interests***

The Company's Condensed Consolidated Financial Statements primarily include the non-controlling interest in the net income of IMAX China, as well as the impact of non-controlling interests in the activity of its Original Film Fund subsidiary. For the three months ended March 31, 2022, the net income attributable to non-controlling interests of the Company's subsidiaries was \$1.7 million (2021 — \$4.3 million).

## **CASH FLOWS FOR THE THREE MONTHS ENDED MARCH 31, 2022 AND 2021**

### ***Operating Activities***

The net cash used in or provided by the Company's operating activities is affected by a number of factors, including: (i) the level of cash collections from customers in respect of existing IMAX Theater System sale and lease agreements, (ii) the amount of upfront payments collected in respect of IMAX Theater System sale and lease agreements in backlog, (iii) the box-office performance of films distributed by the Company and/or released to IMAX theaters, (iv) the level of inventory purchases, and (v) the level of the Company's operating expenses, including expenses for research and development and new business initiatives.

For the three months ended March 31, 2022, net cash used in the Company's operating activities totaled \$3.8 million, as compared to net cash used in operating activities of \$11.0 million in the same period of the prior year. For the three months ended March 31, 2022, the net cash used in the Company's operating activities is principally due to the settlement of Accrued and Other Liabilities and \$5.1 million spent in connection with the development of Film Assets, partially offset by the Company's cash earnings in the period.

For the three months ended March 31, 2021, the net cash outflow from operating activities was principally due to a significant increase in Accounts Receivable of \$13.7 million as a result of theaters reopening amidst the early stages of recovery from the COVID-19 pandemic, partially offset by cash collected in respect of IMAX Theater System sale and lease agreements in backlog and cash collected in advance of providing maintenance services.

### ***Investing Activities***

For the three months ended March 31, 2022, net cash used in investing activities totaled \$10.6 million, as compared to net cash provided by investing activities of \$14.3 million in the same period of the prior year. For the three months ended March 31, 2022, the net cash used in investing activities is primarily driven by \$4.6 million invested in equipment to be used in the Company's joint revenue sharing arrangements with exhibitors (2021 — \$1.5 million) and \$4.7 million invested by IMAX (Shanghai) Culture and Technology Co., Ltd, a wholly-owned subsidiary of IMAX China, in the movie *Mozart from Space*. IMAX (Shanghai) Culture and Technology Co., Ltd. has the right to receive a distribution of the income of the film in accordance with the agreement. IMAX (Shanghai) Culture and Technology Co., Ltd.'s commitment is limited to its RMB 30.0 million (\$4.7 million) investment and has no further investment obligation if the actual movie production cost exceeds the original budget. (See Note 16 of Notes to Condensed Consolidated Financial Statements.)

For the three months ended March 31, 2021, the net cash provided by investing activities was primarily driven by \$17.8 million in cash proceeds received from the sale of the Company's investment in Maoyan (see "Management's Discussion and Analysis of Financial Condition and Results of Operations – Realized and Unrealized Investment Gains").

Based on management's current operating plan for 2022, the Company expects to continue to use cash to deploy additional IMAX Theater Systems under joint revenue sharing arrangements.

Capital expenditures, including the Company's investment in joint revenue sharing arrangements, the purchase of property, plant and equipment, the acquisition of other intangible assets, investments in film assets, and the investment in *Mozart from Space*, were \$15.7 million for the three months ended March 31, 2022, as compared to \$5.7 million for the three months ended March 31, 2021.

#### *Financing Activities*

For the three months ended March 31, 2022, net cash used in financing activities totaled \$13.0 million, as compared to \$52.6 million used in financing activities in the same period of the prior year. For the three months ended March 31, 2022, the net cash used in financing activities is principally due to \$8.1 million used to repurchase common shares of the Company (\$6.3 million) and IMAX China (\$1.8 million), \$3.1 million paid to purchase treasury stock for the settlement of restricted share units and related taxes, and \$1.8 million in fees paid in relation to the Sixth Amended and Restated Credit Agreement entered into by the Company during the first quarter of 2022. (See Note 7 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 for additional information on the Sixth Amended and Restated Credit Agreement.)

For the three months ended March 31, 2021, net cash used in financing activities totaled \$52.6 million and was principally due to the \$255.0 million in repayments of revolving credit facility borrowings, which were funded in part with a portion of the \$223.7 million in net proceeds received from the issuance of the Convertible Notes, and the \$19.1 million purchase of capped calls related to the Convertible Notes. (See Note 7 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 for additional information on the issuance of the Convertible Notes and the related capped call transactions.)

#### **LIQUIDITY AND CAPITAL RESOURCES**

As of March 31, 2022, the Company's principal sources of liquidity included: (i) its balances of cash and cash equivalents (\$162.3 million); (ii) the anticipated collection of trade accounts receivable, which includes amounts owed under joint revenue sharing arrangements and DMR agreements with movie studios; (iii) the anticipated collection of financing receivables due in the next 12 months under sale and sales-type lease arrangements for theaters currently in operation; and (iv) installment payments expected in the next 12 months under sale and sales-type lease arrangements in backlog. Under the terms of the Company's typical sale and sales-type lease agreements, the Company receives substantial cash payments before it completes the performance of its contractual obligations.

In addition, as of March 31, 2022, the Company had \$300.0 million in available borrowing capacity under its Sixth Amended and Restated Credit Agreement with Wells Fargo Bank, National Association (the "Credit Agreement") and \$26.3 million in available borrowing capacity under IMAX (Shanghai) Multimedia Technology Co., Ltd.'s revolving facility (the "Working Capital Facility"). (See Note 7 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 for a description of the material terms of the Credit Agreement and the Working Capital Facility.)

The Company's \$162.3 million balance of cash and cash equivalents as of March 31, 2022 (December 31, 2021 — \$189.7 million) includes \$96.8 million in cash held outside of Canada (December 31, 2021 — \$102.1 million), of which \$73.4 million was held in the People's Republic of China (the "PRC") (December 31, 2021 — \$76.3 million). Based on the results of this reassessment, management concluded that the historical earnings of certain foreign subsidiaries in excess of amounts required to sustain business operations would no longer be indefinitely reinvested. In 2021, \$20.4 million of historical earnings from a subsidiary in China were distributed and, as a result, \$2.0 million of foreign withholding taxes were paid to the relevant tax authorities. As of March 31, 2022, the Company's Condensed Consolidated Balance Sheets include a deferred tax liability of \$17.6 million for the applicable foreign withholding taxes associated with the remaining balance of unrepatriated historical earnings that will not be indefinitely reinvested outside of Canada. These taxes will become payable upon the repatriation of any such earnings.

The Company forecasts its future cash flow and short-term liquidity requirements on an ongoing basis. These forecasts are based on estimates and may be materially impacted by factors that are outside of the Company’s control (including the factors described in “Risk Factors” in Item 1A of the Company’s 2021 Form 10-K as supplemented by the risk factors in Part II, Item 1A of this report). As a result, there is no guarantee that these forecasts will come to fruition and that the Company will be able to fund its operations through cash flows from operations. In particular, the Company’s operating cash flows and cash balances will be adversely impacted if management’s projections of future signings and installations of IMAX Theater Systems and box office performance of IMAX DMR content are not realized.

For the three months ended March 31, 2022, GBO generated by IMAX films totaled \$173.2 million, surpassing the total for the same period in 2021 by \$63.0 million (57%). Although GBO results during the first quarter of 2022 were somewhat impacted by the COVID-related theater closures in China, management remains encouraged by the overall positive trend in box office results and believes it indicates that moviegoers are returning to theaters, and in particular IMAX theaters, where and when theaters are open and they feel safe. Management is further encouraged by the return of the prevalence of exclusive theatrical windows and the strong pipeline of Hollywood movies scheduled to be released for theatrical exhibition throughout the remainder of 2022.

Based on the Company’s current cash balances and operating cash flows, management expects to have sufficient capital and liquidity to fund its anticipated operating needs and capital requirements during the next twelve-month period following the date of this report.

(See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Impact of COVID-19 Pandemic” and “Risk Factors – The Company has experienced a significant decrease in its revenues, earnings and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods” in Part II, Item 1A.)

## CONTRACTUAL OBLIGATIONS

Payments to be made by the Company under contractual obligations as of March 31, 2022 are as follows:

<i>(In thousands of U.S. Dollars)</i>	Payments Due by Period				
	Total Obligation	Less Than One Year	1 to 3 years	3 to 5 years	Thereafter
Purchase obligations <sup>(1)</sup>	\$ 44,731	\$ 44,127	\$ 272	\$ 6	\$ 326
Pension obligations <sup>(2)</sup>	20,298	—	20,298	—	—
Operating lease obligations <sup>(3)</sup>	18,055	3,306	4,700	4,240	5,809
Working Capital Facility <sup>(4)</sup>	3,627	3,627	—	—	—
Convertible Notes <sup>(5)</sup>	235,175	1,150	2,300	231,725	—
Postretirement benefits obligations	3,037	117	266	262	2,392
	<u>\$ 324,923</u>	<u>\$ 52,327</u>	<u>\$ 27,836</u>	<u>\$ 236,233</u>	<u>\$ 8,527</u>

- (1) Represents total payments to be made under binding commitments with suppliers and outstanding payments to be made for supplies ordered, but yet to be invoiced.
- (2) The Company has an unfunded defined benefit pension plan, the Supplemental Executive Retirement Plan (the “SERP”), covering its CEO, Mr. Richard L. Gelfond. The SERP has a fixed benefit payable of \$20.3 million. The table above assumes that Mr. Gelfond will receive a lump sum payment of \$20.3 million six months after retirement at the end of the term of his current employment agreement, which expires on December 31, 2022, in accordance with the terms of the SERP, although Mr. Gelfond has not informed the Company that he intends to retire at that time. (See Note 15 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1.)
- (3) Represents total minimum annual rental payments due under the Company’s operating leases, which almost entirely consist of rent at the Company’s leased office space in New York.
- (4) The Working Capital Facility expires in July 2022. (See Note 7(a) of Notes to Condensed Consolidated Financial Statements in Part I, Item 1.)
- (5) The Convertible Notes bear interest at a rate of 0.500% per annum on the principal of \$230.0 million, payable semi-annually in arrears on April 1 and October 1 of each year. The Convertible Notes will mature on April 1, 2026, unless earlier repurchased, redeemed or converted. (See Note 7(b) of Notes to Condensed Consolidated Financial Statements in Part I, Item 1.)

## **OFF-BALANCE SHEET ARRANGEMENTS**

There are currently no off-balance sheet arrangements that have or are reasonably likely to have a current or future material effect on the Company's financial condition.

## **RECENTLY ISSUED ACCOUNTING STANDARDS**

See Note 3 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 for a discussion of recently issued accounting standards and their impact on the Company's Condensed Consolidated Financial Statements.

## **NON-GAAP FINANCIAL MEASURES**

GAAP refers to generally accepted accounting principles in the United States of America. In this report, the Company presents financial measures in accordance with GAAP and also on a non-GAAP basis under the SEC regulations. Specifically, the Company presents the following non-GAAP financial measures as supplemental measures of its performance:

- Adjusted net loss attributable to common shareholders;
- Adjusted net loss attributable to common shareholders per basic and diluted share;
- EBITDA; and
- Adjusted EBITDA per Credit Facility.

Adjusted net loss attributable to common shareholders and adjusted net loss attributable to common shareholders per basic and diluted share exclude, where applicable: (i) share-based compensation; (ii) COVID-19 government relief benefits; (iii) realized and unrealized investment gains or losses, as well as the related tax impact of these adjustments; and (iv) income taxes resulting from management's decision to no longer indefinitely reinvest the historical earnings of certain foreign subsidiaries.

The Company believes that these non-GAAP financial measures are important supplemental measures that allow management and users of the Company's financial statements to view operating trends and analyze controllable operating performance on a comparable basis between periods without the after-tax impact of share-based compensation and certain unusual items included in net loss attributable to common shareholders. Although share-based compensation is an important aspect of the Company's employee and executive compensation packages, it is a non-cash expense and is excluded from certain internal business performance measures.



A reconciliation of net loss attributable to common shareholders and the associated per share amounts to adjusted net loss attributable to common shareholders and adjusted net loss attributable to common shareholders per basic and diluted share is presented in the table below.

<i>(In thousands of U.S. Dollars, except per share amounts)</i>	<b>Three Months Ended March 31,</b>			
	<b>2022</b>		<b>2021</b>	
	<b>Net Loss</b>	<b>Per Share</b>	<b>Net Loss</b>	<b>Per Share</b>
Net loss attributable to common shareholders	\$ (13,609)	\$ (0.23)	\$ (14,840)	\$ (0.25)
Adjustments <sup>(1)</sup> :				
Share-based compensation	5,959	0.10	5,348	0.09
COVID-19 government relief benefits	(193)	—	(1,484)	(0.03)
Realized and unrealized investment gains	(34)	—	(3,677)	(0.06)
Tax impact on items listed above	(367)	(0.01)	(537)	(0.01)
Income taxes resulting from management's decision to no longer indefinitely reinvest the historical earnings of certain foreign subsidiaries	—	—	381	0.01
Adjusted net loss <sup>(1)</sup>	<u>\$ (8,244)</u>	<u>\$ (0.14)</u>	<u>\$ (14,809)</u>	<u>\$ (0.25)</u>
Weighted average shares outstanding - basic and diluted		<u>58,574</u>		<u>59,012</u>

(1) Reflects amounts attributable to common shareholders.

In addition to the non-GAAP financial measures discussed above, management also uses “EBITDA,” as such term is defined in the Credit Agreement, and which is referred to herein as “Adjusted EBITDA per Credit Facility.” As allowed by the Credit Agreement, Adjusted EBITDA per Credit Facility includes adjustments in addition to the exclusion of interest, taxes, depreciation and amortization. Accordingly, this non-GAAP financial measure is presented to allow a more comprehensive analysis of the Company’s operating performance and to provide additional information with respect to the Company’s compliance with its Credit Agreement requirements, when applicable. In addition, the Company believes that Adjusted EBITDA per Credit Facility presents relevant and useful information widely used by analysts, investors and other interested parties in the Company’s industry to evaluate, assess and benchmark the Company’s results.

EBITDA is defined as net income or loss excluding: (i) income tax expense or benefit; (ii) interest expense, net of interest income; (iii) depreciation and amortization, including film asset amortization; and (iv) amortization of deferred financing costs. Adjusted EBITDA per Credit Facility is defined as EBITDA excluding: (i) share-based and other non-cash compensation; (ii) realized and unrealized investment gains or losses; (iii) write-downs, net of recoveries, including asset impairments and credit loss expense; and (iv) legal judgment and arbitration awards.

Reconciliations of net loss attributable to common shareholders, which is the most directly comparable GAAP measure, to EBITDA and Adjusted EBITDA per Credit Facility are presented in the tables below.

	For the Three Months Ended March 31, 2022 <sup>(1)</sup>		
	Attributable to Non-controlling Interests and Common Shareholders	Less: Attributable to Non-controlling Interests	Attributable to Common Shareholders
<i>(In thousands of U.S. Dollars)</i>			
Reported net loss	\$ (11,950)	\$ 1,659	\$ (13,609)
Add (subtract):			
Income tax expense	2,610	487	2,123
Interest expense, net of interest income	180	(106)	286
Depreciation and amortization, including film asset amortization	12,741	1,301	11,440
Amortization of deferred financing costs <sup>(2)</sup>	1,023	—	1,023
EBITDA	4,604	3,341	1,263
Share-based and other non-cash compensation	6,189	203	5,986
Unrealized investment gains	(34)	—	(34)
Write-downs, including asset impairments and credit loss expense	7,610	18	7,592
Adjusted EBITDA per Credit Facility	<u>\$ 18,369</u>	<u>\$ 3,562</u>	<u>\$ 14,807</u>

	For the Twelve Months Ended March 31, 2022 <sup>(1)</sup>		
	Attributable to Non-controlling Interests and Common Shareholders	Less: Attributable to Non-controlling Interests	Attributable to Common Shareholders
<i>(In thousands of U.S. Dollars)</i>			
Reported net loss	\$ (11,027)	\$ 10,071	\$ (21,098)
Add (subtract):			
Income tax expense	20,106	3,562	16,544
Interest expense, net of interest income	1,130	(376)	1,506
Depreciation and amortization, including film asset amortization	56,146	5,407	50,739
Amortization of deferred financing costs <sup>(2)</sup>	3,227	—	3,227
EBITDA	69,582	18,664	50,918
Share-based and other non-cash compensation	26,847	1,071	25,776
Unrealized investment gains	(126)	—	(126)
Write-downs, including asset impairments and credit loss expense	4,905	(961)	5,866
Legal judgment and arbitration awards	(1,770)	—	(1,770)
Adjusted EBITDA per Credit Facility	<u>\$ 99,438</u>	<u>\$ 18,774</u>	<u>\$ 80,664</u>

(1) The Senior Secured Net Leverage Ratio is calculated using Adjusted EBITDA per Credit Facility determined on a trailing twelve-month basis. (See Note 7 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1.)

(2) The amortization of deferred financing costs is recorded within Interest Expense in the Condensed Consolidated Statements of Operations.

The Company cautions users of its financial statements that these non-GAAP financial measures may not be comparable to similarly titled measures reported by other companies. Additionally, the non-GAAP financial measures used by the Company should not be considered in isolation, or as a substitute for, or superior to, the comparable GAAP amounts.

### **Item 3. Quantitative and Qualitative Disclosures about Market Risk**

The Company is exposed to market risk from foreign currency exchange rates and interest rates, which could affect operating results, financial position and cash flows. Market risk is the potential change in an instrument's value caused by, for example, fluctuations in interest and currency exchange rates. The Company's primary market risk exposure is the risk of unfavorable movements in exchange rates between the U.S. Dollar, the Canadian Dollar and Chinese Renminbi ("RMB"). The Company does not use financial instruments for trading or other speculative purposes.

#### **Foreign Exchange Rate Risk**

A majority of the Company's revenue is denominated in U.S. Dollars while a significant portion of its costs and expenses is denominated in Canadian Dollars. A portion of the Company's net U.S. Dollar cash flows is converted to Canadian Dollars to fund Canadian Dollar expenses through the spot market. In addition, IMAX films generate box office in 87 different countries, and therefore unfavorable exchange rates between applicable local currencies and the U.S. Dollar could have an impact on the GBO generated by the Company's exhibitor customers and its revenues. The Company has incoming cash flows from its revenue generating theaters and ongoing operating expenses in China through its majority-owned subsidiary IMAX (Shanghai) Multimedia Technology Co., Ltd. ("IMAX Shanghai"). In Japan, the Company has ongoing Yen-denominated operating expenses related to its Japanese operations. Net RMB and Japanese Yen cash flows are converted to U.S. Dollars through the spot market. The Company also has cash receipts under leases denominated in RMB, Japanese Yen, Euros and Canadian Dollars.

The Company manages its exposure to foreign exchange rate risks through its regular operating and financing activities, when appropriate, through the use of derivative financial instruments. These derivative financial instruments are utilized to hedge economic exposures as well as reduce earnings and cash flow volatility resulting from shifts in market rates.

Certain of the Company's PRC subsidiaries held approximately RMB \$464.1 million (\$73.1 million) in cash and cash equivalents as of March 31, 2022 (December 31, 2021 — RMB \$484.7 million or \$76.0 million) and are required to transact locally in RMB. Foreign currency exchange transactions, including the remittance of any funds into and out of the PRC, are subject to controls and require the approval of the China State Administration of Foreign Exchange to complete. Any developments relating to the Chinese economy and any actions taken by the Chinese government are beyond the control of the Company; however, the Company monitors and manages its capital and liquidity requirements to ensure compliance with local regulatory and policy requirements. (See "Risk Factors – The Company faces risks in connection with its significant presence in China and the continued expansion of its business there," in Part I, Item 1A of the Company's 2021 Form 10-K.)

For the three months ended March 31, 2022, the Company recorded a foreign exchange net loss of \$(0.1) million as compared to a foreign exchange net gain of \$0.6 million for the three months ended March 31, 2021, associated with the translation of foreign currency denominated monetary assets and liabilities.

The Company has entered into a series of foreign currency forward contracts to manage the risks associated with the volatility of foreign currencies. Certain of these foreign currency forward contracts met the criteria required for hedge accounting under the Derivatives and Hedging Topic of the FASB ASC at inception, and continue to meet hedge effectiveness tests as of March 31, 2022, with settlement dates throughout 2023. Foreign currency derivatives are recognized and measured in the Condensed Consolidated Balance Sheets at fair value. Changes in the fair value (i.e., gains or losses) are recognized in the Condensed Consolidated Statements of Operations except for derivatives designated and qualifying as foreign currency cash flow hedging instruments. The Company currently has cash flow hedging instruments associated with Selling, General and Administrative Expenses. For foreign currency cash flow hedging instruments related to Selling, General and Administrative Expenses, the effective portion of the gain or loss in a hedge of a forecasted transaction is reported within Accumulated Other Comprehensive Income and reclassified to the Condensed Consolidated Statements of Operations when the forecasted transaction occurs. Any ineffective portion is recognized immediately in the Condensed Consolidated Statements of Operations.

The notional value of foreign currency cash flow hedging instruments that qualify for hedge accounting at March 31, 2022 was \$23.6 million (December 31, 2021 — \$26.7 million). A gain of \$0.3 million was recorded to Other Comprehensive Income (Loss) with respect to the change in fair value of these contracts for the three months ended March 31, 2022 (2021 — gain of \$0.3 million). A loss of less than (\$0.1) million was reclassified from Accumulated Other Comprehensive Income to Selling, General and Administrative Expenses for the three months ended March 31, 2022 (2021 — gain of \$0.2 million). An unrealized gain of less than \$0.1 million resulting from a change in the classification of certain forward contracts no longer meeting the requirements for hedge accounting were reclassified from Accumulated Other Comprehensive Income to Selling, General and Administrative Expenses for the three months ended March 31, 2021. The Company currently does not hold any derivatives which are not designated as hedging instruments.

For all derivative instruments, the Company is subject to counterparty credit risk to the extent that the counterparty may not meet its obligations to the Company. To manage this risk, the Company enters into derivative transactions only with major financial institutions.

As of March 31, 2022, the Company's Financing Receivables and working capital items denominated in Canadian Dollars, RMB, Japanese Yen, Euros and other foreign currencies translated into U.S. Dollars was \$170.3 million, of which \$157.3 million was denominated in RMB. Assuming a 10% appreciation or depreciation in foreign currency exchange rates from the quoted foreign currency exchange rates as of March 31, 2022, the potential change in the fair value of foreign currency-denominated financing receivables and working capital items would have been \$17.0 million. A significant portion of the Company's Selling, General, and Administrative Expenses is denominated in Canadian Dollars. Assuming a 1% change appreciation or depreciation in foreign currency exchange rates as of March 31, 2022, the potential change in the amount of Selling, General, and Administrative Expenses would be \$0.1 million.

#### **Interest Rate Risk Management**

The Company's earnings may also be affected by changes in interest rates due to the impact those changes have on its interest income from cash, and its interest expense from variable-rate borrowings that may be made under the Credit Facility. The Company had no variable rate debt instruments outstanding as of March 31, 2022.

#### **Item 4. Controls and Procedures**

##### **EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES**

The Company maintains disclosure controls and procedures designed to ensure that information required to be disclosed in reports filed under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the specified time periods and that such information is accumulated and communicated to management, including the CEO and the Interim Chief Financial Officer ("CFO"), to allow timely discussions regarding required disclosure. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives.

The Company's management, with the participation of its CEO and its CFO, has evaluated the effectiveness of the Company's "disclosure controls and procedures" (as defined in the Securities Exchange Act of 1934 Rules 13a-15(e) or 15d-15(e)) as of March 31, 2022 and has concluded that, as of the end of the period covered by this report, the Company's disclosure controls and procedures were effective. The Company will continue to periodically evaluate its disclosure controls and procedures and will make modifications from time to time as deemed necessary to ensure that information is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

##### **CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING**

There were no changes in the Company's internal control over financial reporting which occurred during the three months ended March 31, 2022, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings

See Note 8 of Notes to Condensed Consolidated Financial Statements to the accompanying Condensed Consolidated Financial Statements in Item 1 for information regarding legal proceedings involving the Company.

### Item 1A. Risk Factors

This Form 10-Q and the risk factors below should be read together with, and supplement, the risk factors in Item 1A. Risk Factors in the Company's 2021 Form 10-K, which describes various risks and uncertainties to which the Company is or may become subject. The risks described below and in the Company's 2021 Form 10-K are not the only risks facing the Company. Additional risks and uncertainties not currently known to the Company or that the Company currently deems to be immaterial also may materially adversely affect its business, financial condition and/or operating results.

### RISKS RELATED TO THE COMPANY'S BUSINESS AND OPERATIONS

*The Company has experienced a significant decrease in its revenues, earnings, and cash flows due to the COVID-19 pandemic and its business, financial condition and results of operations may continue to be significantly harmed in future reporting periods.*

The impact of the COVID-19 pandemic is complex and continuously evolving, resulting in significant disruption to the Company's business and the global economy. At various points during the pandemic, authorities around the world imposed measures intended to control the spread of COVID-19, including stay-at-home orders and restrictions on large public gatherings, which caused movie theaters in countries around the world to temporarily close, including the IMAX theaters in those countries. As a result of these theater closures, movie studios postponed the theatrical release of most films originally scheduled for release in 2020 and early 2021, including many scheduled to be shown in IMAX theaters, while several other films were released directly or concurrently to streaming platforms. Beginning in the third quarter of 2020, stay-at-home orders and capacity restrictions were lifted in many key markets, movie theaters throughout the IMAX network gradually reopened, and movie release schedules have begun to normalize. Note, however, that following the emergence of the Omicron variant and the rise of COVID-19 cases in China in the first quarter of 2022, the Chinese government reinstated capacity restrictions and safety protocols on large public gatherings, leading to the temporary closure of theaters in several cities. There continues to be no assurance that movie theaters will remain open if there is a continued rise of or resurgence in COVID-19 cases in certain jurisdictions. As of April 26, 2022, approximately 65% of the theaters in Greater China were open at various capacities.

There remains uncertainty around whether and when movie-going will return to historical levels on an annual basis. The timing and extent of a recovery of consumer behavior and willingness to spend discretionary income on movie-going may delay the Company's ability to generate significant revenue from GBO generated by its exhibitor customers until consumer behavior normalizes and consumer spending fully recovers.

As a result of the financial difficulties faced by certain of the Company's exhibition customers arising out of pandemic-related theater closures, the Company has experienced and may continue to experience delays in collecting payments due under existing theater sale or lease arrangements. The Company's exhibitor partners may continue to experience operational and/or financial difficulties if the COVID-19 pandemic continues or consumers change their behavior and consumption patterns, which would further increase the risks associated with payments due under existing agreements with the Company. The ability of such partners to make payments cannot be guaranteed and is subject to changing economic circumstances. Further, the Company has had to delay certain theater system installations from backlog and may be required to further delay or cancel such installations in the future. As a result, the Company's future revenues and cash flows may be adversely affected.

Given the dynamic nature of the circumstances, while the Company has been negatively impacted as of the date of filing of this report, it is difficult to predict the full extent of the adverse impact of the COVID-19 pandemic on the Company's financial condition, liquidity, business and results of operations in future reporting periods. The extent and duration of such impact on the Company will depend on future developments, including, but not limited to, the duration and scope of the pandemic, the emergence, spread and severity of variants of the virus, the progress made on administering vaccines and developing treatment and the effectiveness of such vaccines and treatments, the progress towards the resumption of normal operations of movie theaters worldwide and their return to historical levels of attendance, the timing of when new films are released, consumer behavior, the solvency of the Company's exhibitor partners, their ability to make timely payments, any potential construction or installation delays involving our exhibitor partners, the continuing impact of the pandemic on global economic conditions and ongoing government responses to the pandemic. Such events are highly uncertain and cannot be accurately forecast.

The COVID-19 pandemic and public health measures implemented to contain it may also have the effect of heightening many of the other risks described in the Company's 2021 Form 10-K.

## **RISKS RELATED TO THE COMPANY'S INTERNATIONAL OPERATIONS**

*The Company conducts business internationally, which exposes it to uncertainties and risks that could negatively affect its operations, sales, and future growth prospects.*

A significant portion of the GBO generated by the Company's exhibitor customers and its revenues are generated by customers located outside the United States and Canada. Approximately 70%, 77%, and 66% of the Company's revenues were derived outside of the United States and Canada in 2021, 2020 and 2019, respectively. As of March 31, 2022, approximately 72% of IMAX Theater Systems in backlog are scheduled to be installed in international markets. The Company's network spanned 87 different countries as of March 31, 2022, and the Company expects its international operations to continue to account for an increasingly significant portion of its future revenues. There are a number of risks associated with operating in international markets that could negatively affect the Company's operations, sales and future growth prospects. These risks include:

- new restrictions on access to markets, both for IMAX Theater Systems and films;
- unusual or burdensome foreign laws or regulatory requirements or unexpected changes to those laws or requirements, including censorship of content that may restrict what films the Company's theaters can present;
- fluctuations in the value of various foreign currencies versus the U.S. Dollar and potential currency devaluations;
- new tariffs, trade protection measures, import or export licensing requirements, trade embargoes, sanctions, and other trade barriers;
- difficulties in obtaining competitively priced key commodities, raw materials, and component parts from various international sources that are needed to manufacture quality products on a timely basis;
- imposition of foreign exchange controls in foreign jurisdictions;
- dependence on foreign distributors and their sales channels;
- reliance on local partners, including in connection with joint revenue sharing arrangements;
- difficulties in staffing and managing foreign operations;
- inability to complete installations of IMAX Theater Systems, including as a result of material disruptions or delays in the Company's supply chains, or collect full payment on installations thereof;
- local business practices that can present challenges to compliance with applicable anti-corruption and bribery laws;
- difficulties in establishing market-appropriate pricing;
- less accurate and/or less reliable box office reporting;
- adverse changes in foreign government monetary and/or tax policies, and/or difficulties in repatriating cash from foreign jurisdictions (including with respect to China, where approval of the State Administration of Foreign Exchange is required);
- poor recognition of intellectual property rights;
- difficulties in enforcing contractual rights;

- inflation;
- requirements to provide performance bonds and letters of credit to international customers to secure system component deliveries;
- harm to the IMAX brand from operating in countries with records of controversial government action, including human rights abuses; and
- political, economic and social instability, which could result in adverse consequences for the Company's interests in different regions of the world.

Additionally, global geopolitical tensions and actions that governments take in response may adversely impact the Company. In response to the ongoing conflict between Russia and Ukraine, Canada, the United States, and other countries in which the Company operates have imposed broad sanctions and other restrictive actions against governmental and other entities in Russia, which in turn have and may continue to have an adverse impact on the Company's business and results of operations in affected regions. In addition, in the wake of the Russia-Ukraine conflict, major movie studios suspended the theatrical release of films in Russia. The lack of new films and content released by movie studios may force Russian exhibitors to reduce their operating hours or temporarily close their theaters, which may lead to financial difficulties and permanent closures of Russian theaters as well as general depression of the Russia exhibition industry. Such operational and financial challenges in the Russian exhibition industry may adversely affect the Company's future revenues and cash flows in that region. The Company has notified its exhibitor clients in Russia and Belarus that such sanctions and actions constitute a force majeure event under their theater agreements, resulting in the temporary suspension of the Company's obligations thereunder. The scope, intensity, duration and outcome of the conflict is uncertain. Additionally, given the global nature of the Company's operations, any protracted conflict or the broader macroeconomic impact of the Russia-Ukraine conflict and sanctions imposed on Russia and other countries could have an adverse impact on the Company's business, results of operations, financial condition, and future performance (the Company has 22 theater systems in its backlog from Russia and the CIS and Ukraine) and may also magnify the impact of other risks described herein and in the Company's 2021 Form 10-K, including the risk of cybersecurity attacks, which have increased in connection with the ongoing conflict and may impact information technology systems unrelated to the conflict, or jeopardize critical infrastructure in jurisdictions where the Company operates.

In addition, changes in United States or Canadian foreign policy can present additional risks or uncertainties as the Company continues to expand its international operations. Opening and operating theaters in markets that have experienced geopolitical or sociopolitical unrest or controversy, including through partnerships with local entities, exposes the Company to the risks listed above, as well as additional risks of operating in a volatile region. Such risks may negatively impact the Company's business operations in such regions and may also harm the Company's brand. Moreover, a deterioration of the diplomatic relations between the United States or Canada and a given country may impede the Company's ability to operate theaters in such countries and have a negative impact on the Company's financial condition and future growth prospects.

## **Item 2. *Unregistered Sales of Equity Securities and Use of Proceeds***

### **Issuer Purchases of Equity Securities**

In April 2021, the Company's Board of Directors approved a 12-month extension to its share repurchase program through June 30, 2022. The extension authorized the Company to repurchase up to approximately \$89.4 million worth of common shares, the remaining amount available of the original \$200.0 million initially authorized under the share repurchase program when it commenced on July 1, 2017. The repurchases may be made either in the open market or through private transactions, including repurchases made pursuant to a plan intended to comply with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended, subject to market conditions, applicable legal requirements, and other relevant factors. The Company has no obligation to repurchase shares and the share repurchase program may be suspended or discontinued by the Company at any time.

During the three months ended March 31, 2022, the Company repurchased 380,652 common shares at an average price of \$16.45 per share for a total of \$6.3 million. As of March 31, 2022, the Company has \$69.2 million available under its approved repurchase program.

The Company's common share repurchase program activity for the three months ended March 31, 2022 was as follows:

	Total number of shares purchased	Average price paid per share	Total value of shares purchased as part of publicly announced program	Maximum value of shares that may yet be purchased under the program
January 1 through January 31, 2022	134,407	\$ 16.18	2,174,910	\$ 73,298,591
February 1 through February 28, 2022	115,864	15.99	1,853,129	71,445,462
March 1 through March 31, 2022	130,381	17.14	2,235,191	69,210,271
Total	380,652	\$ 16.45	6,263,230	

Subsequent to March 31, 2022 and through April 27, 2022, the Company completed repurchases through a 10b5-1 program of 869,048 shares at an average price of \$16.42 per share, for a total cost of \$14.3 million, excluding commissions.

In 2021, IMAX China's shareholders granted its Board of Directors a general mandate authorizing the Board, subject to applicable laws, to repurchase shares of IMAX China not to exceed 10% of the total number of issued shares as of May 6, 2021 (34,835,824 shares). This program will be valid until the 2022 Annual General Meeting of IMAX China, which will be held on May 26, 2022. The repurchases may be made in the open market or through other means permitted by applicable laws. IMAX China has no obligation to repurchase its shares and the share repurchase program may be suspended or discontinued by IMAX China at any time. During the three months ended March 31, 2022, IMAX China repurchased 1,448,000 common shares at an average price of HKD 9.89 per share (U.S. \$1.26 per share) for a total of HKD 14.3 million or U.S. \$1.8 million.

The total number of shares purchased during the three months ended March 31, 2022, under both the Company and IMAX China's repurchase plans, does not include any shares purchased in the administration of employee share-based compensation plans.

(See Note 7 of Notes to Condensed Consolidated Financial Statements in Part I, Item 1 for a summary of the material terms and conditions of the Company's revolving credit facility, which include a limitation of the amount of permitted share repurchases.)

#### Item 6. Exhibits

Exhibit No.	Description
10.1*	<a href="#">Sixth Amended and Restated Credit Agreement, dated as of March 25, 2022.</a>
31.1*	<a href="#">Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated April 28, 2022, by Richard L. Gelfond.</a>
31.2*	<a href="#">Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, dated April 28, 2022, by Joseph Sparacio.</a>
32.1*	<a href="#">Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated April 28, 2022, by Richard L. Gelfond.</a>
32.2*	<a href="#">Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated April 28, 2022, by Joseph Sparacio.</a>
101.INS	Inline XBRL Instance Document – The instance document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

\*Filed herewith.



**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

IMAX CORPORATION

Date: April 28, 2022

By: /s/ JOSEPH SPARACIO  
Joseph Sparacio  
Interim Chief Financial Officer  
(Principal Financial Officer)

Date: April 28, 2022

By: /s/ KEVIN M. DELANEY  
Kevin M. Delaney  
Senior Vice-President, Finance & Controller  
(Principal Accounting Officer)

**IMAX CORPORATION**

Exhibit 10.1

**SIXTH AMENDED AND RESTATED CREDIT AGREEMENT**

by and between

**IMAX CORPORATION,**  
as Borrower

- and -

**THE GUARANTORS REFERRED TO HEREIN,**  
as Guarantors

- and -

**THE LENDERS REFERRED TO HEREIN,**  
as Lenders

- and -

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as Administrative Agent, Issuing Lender and Swingline Lender

- and -

**WELLS FARGO SECURITIES, LLC,**  
as Sole Lead Arranger

- and -

**WELLS FARGO SECURITIES, LLC and**  
**JPMORGAN CHASE BANK, N.A.,**  
as Joint Bookrunners

- and -

**JPMORGAN CHASE BANK, N.A.,**  
as Syndication Agent

- and -

**BANK OF AMERICA, N.A.,**  
**HSBC BANK CANADA and**  
**NATIONAL BANK OF CANADA,**  
as Co-Documentation Agents

Dated: March 25, 2022

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## SIXTH AMENDED AND RESTATED CREDIT AGREEMENT

This Sixth Amended and Restated Credit Agreement dated March 25, 2022 (as amended, restated, supplemented, extended or otherwise modified, this “**Agreement**”) is entered into by and between IMAX Corporation, a corporation incorporated pursuant to the laws of Canada, as Borrower (as defined below), the guarantors who are a party to this Agreement and who may become a party hereto pursuant to the terms hereof, as Guarantors (as defined below), the lenders who are a party to this Agreement and who may become a party hereto pursuant to the terms hereof, as Lenders (as defined below), and Wells Fargo Bank, National Association, a national banking association, as Agent (as defined below) for the Secured Parties (as defined below).

### WITNESSETH:

**WHEREAS** Borrower and Congress Financial Corporation (Canada) (“**Original Lender**”) entered into a loan agreement dated February 6, 2004 which was amended pursuant to:

- (a) a first amendment to the loan agreement dated June 30, 2005;
- (b) a second amendment to the loan agreement dated May 16, 2006;
- (c) a second amendment to the loan agreement dated May 16, 2006 (which amended, restated and replaced in its entirety the second amendment to the loan agreement referred to in clause (b) above);
- (d) a third amendment to the loan agreement dated September 30, 2007;
- (e) a fourth amendment to the loan agreement dated December 5, 2007; and
- (f) a fifth amendment to the loan agreement dated May 5, 2008,

(collectively, the “**Original Loan Agreement**”);

**WHEREAS** Wachovia Capital Finance Corporation (Canada) (formerly known as Congress Financial Corporation (Canada)) as agent (the “**Original Agent**”) and lender, Borrower and Export Development Canada (“**EDC**”), as lender, amended and restated the Original Loan Agreement pursuant to an amended and restated credit agreement dated November 16, 2009 as amended by a first amendment to the amended and restated credit agreement dated January 21, 2011 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**First Amended and Restated Credit Agreement**”);

**WHEREAS** Wells Fargo Capital Finance Corporation Canada (formerly known as Wachovia Capital Finance Corporation (Canada)), as Original Agent and lender, Borrower and EDC, as lender, amended and restated the First Amended and Restated Credit Agreement pursuant to a second amended and restated credit agreement dated June 2, 2011 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Second Amended and Restated Credit Agreement**”);

**WHEREAS** Agent (as successor agent to the Original Agent), Borrower and the lenders party thereto amended and restated the Second Amended and Restated Credit Agreement pursuant to a third amended



and restated credit agreement dated February 7, 2013 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Third Amended and Restated Credit Agreement**”);

**WHEREAS** Agent, Borrower and the lenders party thereto amended and restated the Third Amended and Restated Credit Agreement pursuant to a fourth amended and restated credit agreement dated March 3, 2015 (as amended February 22, 2016 and as further amended, modified, supplemented, extended, renewed, restated or replaced from time to time, the “**Fourth Amended and Restated Credit Agreement**”);

**WHEREAS** Agent, Borrower and the lenders party thereto amended and restated the Fourth Amended and Restated Credit Agreement pursuant to a fifth amended and restated credit agreement dated June 28, 2018 (as amended, modified, supplemented, extended, renewed, restated or replaced from time to time, including pursuant to the First Amendment to Fifth Amended and Restated Credit Agreement entered into on the First Amendment Effective Date, the Second Amendment to the Fifth Amended and Restated Credit Agreement entered into on the Second Amendment Effective Date, the Third Amendment to Fifth Amended and Restated Credit Agreement entered into on July 28, 2021 and the Fourth Amendment to Fifth Amended and Restated Credit Agreement entered into on December 13, 2021, the “**Fifth Amended and Restated Credit Agreement**”);

**WHEREAS** on the Restatement Effective Date (as defined below), the Agent, Borrower and Lenders desire to amend and restate the Fifth Amended and Restated Credit Agreement as set forth herein; and

**WHEREAS** each Lender is willing to (severally and not jointly) make loans and provide such financial accommodations to Borrower according to its Pro Rata Share (as defined below) on the terms and conditions set forth herein and Agent is willing to act as agent for Secured Parties on the terms and conditions set forth herein and the other Financing Agreements (as defined below);

**NOW, THEREFORE**, in consideration of the mutual conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

## **ARTICLE 1** **DEFINITIONS**

All references to the plural herein shall also mean the singular and to the singular shall also mean the plural unless the context otherwise requires. All references to Borrower, Credit Parties (as defined below), Guarantors, Lenders, Issuing Lender (as defined below) and Agent pursuant to the definitions set forth in the recitals hereto, or to any other person herein, shall include their respective successors and permitted assigns. The words “**hereof**”, “**herein**”, “**hereunder**”, “**this Agreement**” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not any particular provision of this Agreement and as this Agreement now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced. The word “**including**” when used in this Agreement shall mean “**including, without limitation**”. Unless otherwise expressly provided herein, any definition or reference to formation documents, governing documents, agreements (including the Financing Agreements) and other contractual documents or instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but

only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Financing Agreement. References herein to any statute or any provision thereof include such statute or provision as amended, revised, re-enacted, and/or consolidated from time to time and any successor statute thereto. An Event of Default (as defined below) shall continue or be continuing until such Event of Default is waived in accordance with Section 12.3 or, without derogating from the cure rights, if any, provided to Credit Parties in Article 10 hereof, is cured, if such Event of Default is capable of being cured. Any accounting term used herein unless otherwise defined in this Agreement shall have the meanings customarily given to such term in accordance with GAAP (as defined below). If, after the Fifth A&R Closing Date (as defined below), there shall be any change in the application of the accounting principles used in preparation of Borrower's financial statements as a result of any changes in GAAP including International Financial Reporting Standards becoming applicable to Borrower, which changes (a) result in a change in the method of calculation of, or (b) impact on, the financial covenant or other covenants applicable to Borrower found in this Agreement or the other Financing Agreements, and either the Borrower or the Required Lenders (as defined below) shall so request, Borrower and Agent shall promptly enter into negotiations in good faith in order to amend the financial covenant or other covenants so as to reflect equitably such changes with the desired result that the evaluations of Borrower's financial condition shall be the same after such changes as if such changes had not been made. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, the effects of Accounting Standards Codification of the Financial Accounting Standards Board ("FASB ASC") 825 and FASB ASC 470-20 (or any similar accounting principle permitting a Person (as defined below) to value its financial liabilities or Debt (as defined below) at the fair value thereof) on financial liabilities shall be disregarded. For the avoidance of doubt, and without limitation of the foregoing, Permitted Convertible Debt (as defined below) shall at all times prior to the repurchase, conversion or payment thereof be valued at the full stated principal amount thereof and shall not include any reduction or appreciation in value of the shares and/or cash deliverable upon conversion thereof. "Canadian Dollars" and the sign "CDN\$" mean lawful money of Canada. "U.S. Dollars" and the sign "\$" mean lawful money of the United States of America. All monetary amounts referred to in this Agreement are in U.S. Dollars unless otherwise stated. The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties (both real and personal property), including cash, securities, accounts and contract rights. For purposes of this Agreement, the following terms shall have the respective meanings given to them below:

"Accounts" as defined in the UCC as in effect in the State of New York.

"Acquired EBITDA" means, with respect to any Person or business acquired pursuant to an Acquisition for any period, the amount for such period of EBITDA of any such Person or business so acquired (determined using such definitions as if references to the Borrower and its Subsidiaries therein were to such Person or business), as calculated by the Borrower in good faith and which shall be factually supported by historical financial statements; provided, that, notwithstanding the foregoing, in determining Acquired EBITDA for any Person or business that does not have historical financial accounting periods which coincide with that of the financial accounting periods of the Borrower and its Subsidiaries (a) references to applicable measurement period in any applicable definitions shall be deemed to mean the same relevant period as the applicable period of determination for the Borrower and its Subsidiaries and (b) to the extent the commencement of any such measurement period shall occur during a fiscal quarter of such acquired Person or business (such that only a portion of such fiscal quarter shall be included in such period), Acquired EBITDA for the portion of such fiscal quarter so included in

such period shall be deemed to be an amount equal to (x) Acquired EBITDA otherwise attributable to the entire fiscal quarter (determined in a manner consistent with the terms set forth above) multiplied by (y) a fraction, the numerator of which shall be the number of months of such fiscal quarter included in the relevant period and the denominator of which shall be actual months in such fiscal quarter.

“**Acquisition**” is defined in the definition of “Material Acquisition”.

“**Actual EBITDA**” is defined in the definition of Designated Period Actual EBITDA Notice.

“**Adjusted Eurocurrency Rate**” means, for any Interest Period, a rate per annum determined by the Agent pursuant to the following formula:

$$\text{Adjusted Eurocurrency Rate} = \frac{\text{Eurocurrency Rate for such Currency for such Interest Period}}{1.00 - \text{Eurocurrency Reserve Percentage}}$$

“**Adjusted Term SOFR**” means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“**Agent**” means Wells Fargo (or any of its branch offices or Affiliates), in its capacity as administrative and collateral agent hereunder, and any successor thereto appointed pursuant to Section 11.11.

“**Agent’s Office**” means, with respect to any Currency, the office of the Agent specified in or determined in accordance with the provisions of Section 13.1 with respect to such Currency.

“**Agreed Currency**” is defined in Section 13.6 hereof.

“**Alternate Currency**” means each Currency other than U.S. Dollars.

“**Alternate Currency Loan**” means each Revolving Loan denominated in an Alternate Currency.

“**Alternate Currency Revolving Loan Sublimit**” means an amount equal to the lesser of (a) \$100,000,000 and (b) the aggregate amount of the Revolving Loan Commitment as then in effect. The Alternate Currency Revolving Loan Sublimit is part of, and not in addition to, the Revolving Loan Commitment.

“**AM Calculation Date**” has the meaning set forth in the definition of “Applicable Margin.”

“**Annualized EBITDA**” means, solely for the purposes of determining compliance with the financial covenant in Section 9.1 and the Applicable Margin, for the applicable period ending immediately prior to the date on which a Designated Period Annualized EBITDA Notice is delivered, the sum of Actual EBITDA for the three (3) Fiscal Quarters ended immediately prior to the delivery of such Designated Period Annualized EBITDA Notice multiplied by four-thirds (4/3). In determining Annualized EBITDA clause (a) of the penultimate sentence of EBITDA and any applicable Replacement EBITDA Amounts shall be disregarded.

“**Anti-Money Laundering Laws**” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules related to terrorism financing or money laundering, including any applicable provision of the *Patriot Act* and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“**Applicable Law**” means all applicable provisions of constitutions, laws, statutes, ordinances, rules, treaties, regulations and orders of Governmental Authorities and all orders and decrees of all courts and arbitrators.

“**Applicable Margin**” means the corresponding percentages *per annum* as set forth below based on the Total Leverage Ratio:

<u>Pricing Level</u>	<u>Total Leverage Ratio</u>	<u>Applicable Margin for Term SOFR Loans, CDOR Rate Loans, Eurocurrency Rate Loans and Letter of Credit Accommodations</u>	<u>Applicable Margin for U.S. Base Rate Loans and Canadian Prime Rate Loans</u>	<u>Applicable Margin for Commitment Fees</u>
I	Less than 1.00:1.00	1.00%	0.25%	0.25%
II	Greater than or equal to 1.00:1.00 but less than 1.50:1.00	1.25%	0.50%	0.30%
III	Greater than or equal to 1.50:1.00 but less than 2.00:1.00	1.50%	0.75%	0.35%
IV	Greater than or equal to 2.00:1.00	1.75%	1.00%	0.375%

The Applicable Margin shall be determined and adjusted quarterly on the date (each an “**AM Calculation Date**”) ten (10) Business Days after the day by which Borrower is required to provide a

Compliance Certificate pursuant to Section 7.6(a)(iii) for the most recently ended Fiscal Quarter; provided that (a) notwithstanding anything to the contrary above, from and after the First Amendment Effective Date until the first AM Calculation Date after the date on which the Designated Period has ended, the Applicable Margin for Term SOFR Loans, CDOR Rate Loans, Eurocurrency Rate Loans and Letter of Credit Accommodations shall be 2.50%, the Applicable Margin for U.S. Base Rate Loans and Canadian Prime Rate Loans shall be 1.75% and the Applicable Margin for commitment fees shall be 0.375% and, thereafter the Pricing Level shall be determined by reference to the Total Leverage Ratio as of the last day of the most recently ended Fiscal Quarter preceding the applicable AM Calculation Date and (b) if Borrower fails to provide the Compliance Certificate as required by Section 7.6(a)(iii) for the most recently ended Fiscal Quarter preceding the applicable AM Calculation Date, the Applicable Margin from such AM Calculation Date shall be based on Pricing Level IV until such time as a Compliance Certificate is provided, at which time the Pricing Level shall be determined by reference to the Total Leverage Ratio as of the last day of the most recently ended Fiscal Quarter. The Applicable Margin shall be effective from one AM Calculation Date until the next AM Calculation Date. Any adjustment in the Applicable Margin shall be applicable to all Revolving Loans or Letter of Credit Accommodations then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Compliance Certificate delivered pursuant to Section 7.6(a) is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) the Revolving Loan Commitment is in effect, or (iii) any Loan or Letter of Credit Accommodation is outstanding when such inaccuracy is discovered or such financial statement or Compliance Certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an “**Applicable Period**”) than the Applicable Margin applied for such Applicable Period, then (A) Borrower shall immediately deliver to Agent a corrected Compliance Certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Total Leverage Ratio in the corrected Compliance Certificate were applicable for such Applicable Period, and (C) Borrower shall immediately and retroactively be obligated to pay to Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by Agent in accordance with Section 5.3. Borrower’s obligations under this paragraph shall survive the termination of the Revolving Loan Commitments and the repayment of all other Obligations hereunder.

“**Approved Fund**” means any Fund that is administered or managed by (a) an existing Lender, (b) an Affiliate of an existing Lender or (c) an entity or an Affiliate of an entity that administers or manages an existing Lender.

“**Arranger**” means Wells Fargo Securities, LLC, in its role hereunder as sole lead arranger and joint bookrunner.

“**Asset Sale**” is defined in Section 8.1(a).

“**Assignment and Assumption Agreement**” means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 11.1), and accepted by Agent, in substantially the form attached hereto as Exhibit A or any other form approved by Agent.

“**Attributable Debt**” means, on any date of determination, (a) in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease, the capitalized amount or principal amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease Obligation.

“**Available Tenor**” means, as of any date of determination and with respect to any then-current Benchmark for any Currency, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 3.2(c)(iv).

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Bankruptcy Code**” means title 11 of the United States Code, as in effect from time to time.

“**Benchmark**” means, initially, with respect to any (a) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, U.S. Dollars, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark for U.S. Dollars, then “Benchmark” means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 3.2(c)(i) and (b) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros or Canadian Dollars, Euribor or CDOR, respectively; provided that if a Benchmark Transition Event has occurred with respect to Euribor or CDOR, as applicable, or the then-current Benchmark for such Currency, then “Benchmark” means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 3.2(c)(i).

“**Benchmark Replacement**” means, with respect to any Benchmark Transition Event for any then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by the Agent and the Borrower as the replacement for such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the

Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for such Benchmark for syndicated credit facilities denominated in the applicable Currency at such time and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Financing Agreements.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Borrower giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Currency.

“**Benchmark Replacement Date**” means the earliest to occur of the following events with respect to the then-current Benchmark for any Currency:

(a) in the case of clause (a) or (b) of the definition of “Benchmark Transition Event,” the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (a) or (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Event**” means, with respect to the then-current Benchmark for any Currency, the occurrence of one or more of the following events with respect to such Benchmark:

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or

publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the Federal Reserve Bank of New York, the central bank for the Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Start Date**” means, with respect to any Benchmark for any Currency, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90<sup>th</sup> day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

“**Benchmark Unavailability Period**” means, with respect to any then-current Benchmark for any Currency, the period (if any) (x) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark pursuant to clauses (a) or (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Financing Agreement in accordance with Section 3.2(c)(i) and (y) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Financing Agreement in accordance with Section 3.2(c)(i).

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 CFR § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.



“**BIA**” means the *Bankruptcy and Insolvency Act* (Canada).

“**BMO**” means Bank of Montreal.

“**BMO and National Bank Facilities**” means the debt facilities with respect to the issuance of:

- (a) a \$5,000,000 Demand, Revolving Letter of Credit Facility by National Bank of Canada in favor of Borrower (the “**LC Facility**”); and
- (a) a CDN\$175,000 Mastercard Businesscard Facility by BMO in favor of Borrower (the “**Mastercard Facility**”).

“**Borrower**” means IMAX Corporation, a corporation incorporated pursuant to the laws of Canada.

“**Business Day**” means any day that (a) is not a Saturday, Sunday or other day on which the Federal Reserve Bank of New York is closed and (b) is not a day on which commercial banks in Charlotte, North Carolina or Toronto, Ontario are closed.

“**Canadian Prime Rate**” means the greater of (a) the rate of interest publicly announced from time to time by the Canadian Reference Bank as its prime rate in effect for determining interest rates on Canadian Dollar denominated commercial loans in Canada (which such rate is not necessarily the most favored rate of such reference bank and such reference bank may lend to its customers at rates that are at, above or below such rate) and (b) the annual rate of interest equal to the sum of (i) the CDOR Rate for a one (1) month interest period at such time plus (ii) 0.75% *per annum*.

“**Canadian Prime Rate Loans**” means any Loans or portion thereof on which interest is payable based on the Canadian Prime Rate in accordance with the terms hereof.

“**Canadian Reference Bank**” means a bank listed in Schedule I to the *Bank Act* (Canada) as Agent may from time to time designate, in its discretion.

“**Canadian Revolving Loans**” means Revolving Loans denominated in Canadian Dollars.

“**Capital Lease Obligations**” means all monetary obligations of Borrower and its consolidated Subsidiaries under a capital or finance lease and, for the purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that obligations or liabilities of any Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations would be required to be classified and accounted for as an operating lease under GAAP as existing on the Fifth A&R Closing Date that are recharacterized as Capital Lease Obligations due to a change in GAAP after the Fifth A&R Closing Date shall not be treated as Capital Lease Obligations for any purpose under this Agreement, but instead shall be accounted for as if they were operating leases for all purposes under this Agreement as determined under GAAP as in effect on the Fifth A&R Closing Date.

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the government of Canada, the United States, the United Kingdom or any country that is a member of the European Union (as it is constituted on the Fifth A&R Closing Date) or any agency or instrumentality

of any of the foregoing; (b) domestic and euro dollar certificates of deposit and time deposits, bankers' acceptances and floating rate certificates of deposit issued by any commercial bank organized under the laws of Canada or the United States, any province or state thereof, any foreign bank, or its branches or agencies, the long-term indebtedness of which institution at the time of acquisition is rated A- (or better) by Standard & Poor's Rating Services ("**S&P**") or A3 (or better) by Moody's Investors Service, Inc. ("**Moody's**"), and which deposits are fully protected against currency fluctuations for any such deposits with a term of more than 90 days; (c) shares of money market, mutual or similar funds having assets in excess of \$100,000,000 and the investments of which are limited to (i) investment grade securities (i.e., securities rated at least BBB by S&P or rated at least Baa by Moody's) and (ii) commercial paper of Canadian, U.S. and foreign banks and bank holding companies and their subsidiaries and Canadian, U.S. and foreign finance, commercial industrial or utility companies which, at the time of acquisition, are rated A-1 (or better) by S&P or P-1 (or better) by Moody's (all such institutions being, "**Qualified Institutions**"); (d) commercial paper of Qualified Institutions; (e) auction rate securities (long-term, variable rate bonds tied to short-term interest rates) that are rated AAA by S&P and Aaa by Moody's; and (f) in the case of any Subsidiary organized under the laws of a country other than the United States, investments of comparable tenor and credit quality to those described in the foregoing clauses customarily used in any country where such Subsidiary is organized or in which the investment is made; provided that the maturities of such Cash Equivalents shall not exceed 365 days from the date of acquisition.

"**Cash Management Agreement**" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card (including purchase cards), electronic funds transfer and other cash management arrangements.

"**Cash Management Bank**" means any Person that (a) at the time it enters into a Cash Management Agreement, is a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent, in its capacity as a party to such Cash Management Agreement or (b) within thirty days after the time such Person enters into the applicable Cash Management Agreement, becomes a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent.

"**CCAA**" means the *Companies' Creditors Arrangement Act* (Canada).

"**CDOR**" has the meaning set forth in the definition of "CDOR Rate."

"**CDOR Rate**" means, the greater of (a) for the applicable Interest Period and as determined on the day of the applicable borrowing, conversion or continuation, a rate of interest *per annum* equal to the stated average appearing on the "CDOR Page" of Refinitiv Benchmarks Services (UK) Limited, as of 10:15 a.m. (Toronto time) on such day (or if such day is not a Business Day, then on the immediately preceding Business Day), of the rates *per annum* applicable to Canadian Dollar bankers' acceptances ("**CDOR**") having a term equal to such Interest Period, rounded to the nearest 1/100th of 1% (with 0.005% being rounded up); provided, however, that if, for any reason, such rate does not appear on the "CDOR Page" (or applicable successor page) on such day as contemplated, then the "CDOR Rate" on such day shall be calculated as the arithmetic average of the rates *per annum* applicable to Canadian Dollar bankers' acceptances having a term equal to such Interest Period quoted by the banks listed in Schedule I of the *Bank Act* (Canada) as of 10:15 a.m. (Toronto time) on such day (or if such day is not a Business Day, then on the immediately preceding Business Day) and (b) the Floor. Each calculation by Agent of the CDOR Rate shall be conclusive and binding for all purposes, absent manifest error.

“**CDOR Rate Loans**” means any Loans or portion thereof on which interest is payable by reference to the CDOR Rate in accordance with the terms hereof.

“**Change in Law**” means the occurrence, after the Restatement Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by Agent, any Lender or the Issuing Lender with any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the *Dodd-Frank Wall Street Reform and Consumer Protection Act* and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented or issued.

“**Change of Control**” means any of the following events:

(a) a “person” or “group” (within the meaning of Section 13(d)(3) of the U.S. Securities Exchange Act of 1934), other than the Borrower or its wholly owned Subsidiaries, or their respective employee benefit plans, files any report with the Securities and Exchange Commission indicating that such person or group has become the direct or indirect “beneficial owner” (as defined below) of Equity Interests representing more than 50% of the voting power of all of the Borrower’s Equity Interests; provided, however, that no “person” or “group” will be deemed to be the beneficial owner of any securities tendered pursuant to a tender or exchange offer made by or on behalf of such “person” or “group” until such tendered securities are accepted for purchase or exchange under such offer; or

(b) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Borrower and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Borrower’s wholly owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of amalgamation, merger, arrangement, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the voting power of all of the Borrower’s Equity Interests are exchanged for, converted into, acquired for or constitute solely the right to receive, other securities, cash or other property (other than changes resulting solely from a subdivision or combination, or a change in par value, of such Equity Interests); provided, however, that any amalgamation, merger, arrangement, consolidation, share exchange or combination of the Borrower pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined below) all classes of the Borrower’s Equity Interests entitled to vote immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than 50% of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Change of Control pursuant to this **clause (b)**.

For the purposes of this definition, whether a Person is a “**beneficial owner**,” whether shares are “**beneficially owned**” and percentage beneficial ownership will be determined in accordance with Rule 13d-3 under the U.S. Securities Exchange Act of 1934.

“**Code**” means the United States Internal Revenue Code of 1986, as amended.

“**Collateral**” means, collectively, all of the property and assets, real or personal, tangible or intangible, now existing or hereafter acquired by any Credit Party that may at any time be or become subject to a Lien in favor of Agent to secure any or all of the Obligations; provided that, for greater certainty, any and all assets of IMAX China Multimedia and IMAX China Theatre, the Mississauga Property, the Playa Vista Property and any other property and assets expressly excluded from the “Collateral” pursuant to the terms of the applicable Financing Agreements shall be excluded from, and not form part of, the Collateral.

“**Commitments**” means, collectively, the Revolving Loan Commitments and the Incremental Term Loan Commitments (if any).

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

“**Compliance Certificate**” means the compliance certificate substantially in the form attached hereto as Exhibit B or such other form as may be reasonably approved by the Agent.

“**Conforming Changes**” means, with respect to the use or administration of an initial Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “U.S. Base Rate”, the definition of “Canadian Prime Rate”, the definition of “CDOR Rate”, the definition of “CDOR”, the definition of “Business Day,” the definition of “Eurocurrency Banking Day,” the definition of “SOFR Business Day,” the definition of “Interest Period” or any similar or analogous definition (or the addition of a concept of “interest period”), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 3.3 and other technical, administrative or operational matters) that the Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Financing Agreements).

“**Connection Income Taxes**” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“**Consolidated Total Assets**” means, with respect to Borrower and its consolidated Subsidiaries as of any date, the amount which, in accordance with GAAP, would be set forth under the heading “Total Assets” (or any like heading) on a consolidated balance sheet of Borrower and its Subsidiaries, as of the end of the most recent consolidated balance sheet of Borrower and its Subsidiaries, determined on a Pro Forma Basis.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings correlative thereto.

“**Control Agreement**” means an agreement in form and substance reasonably satisfactory to the Agent establishing the Agent’s “Control” (as defined in the UCC or any comparable concept under the PPSA) with respect to, or otherwise perfecting (in any comparable manner as required under the laws of Canada) the Agent’s Lien on, any Deposit Account or Securities Account as security for the Obligations.

“**Credit Parties**” means, collectively, Borrower and Guarantors.

“**Currency**” means Canadian Dollars, Euros and U.S. Dollars and any other freely transferable currency to the extent that such currency is approved by Agent and each Revolving Lender providing the Revolving Loan in such currency.

“**Debt**” means, with respect to any Person at any time and without duplication:

- (a) all obligations for the deferred purchase price of property or services (other than (x) current trade payables incurred in the ordinary course of business, (y) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (z) expenses accrued in the ordinary course of business);
- (b) all obligations, liabilities and indebtedness evidenced by notes, bonds, debentures or similar instruments;
- (c) the Attributable Debt of such Person with respect to such Person’s Capital Lease Obligations and Synthetic Leases;
- (d) the drawn and unreimbursed amount of all issued letters of credit (including Letter of Credit Accommodations and letters of credit issued under the LC Facility);
- (e) Capital Lease Obligations;
- (f) all obligations, liabilities and indebtedness for borrowed money;
- (g) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person to the extent of the value of such property (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business);
- (h) all indebtedness of any other Person secured by a Lien on any asset owned or being purchased by such Person, whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (i) all obligations of any such Person in respect of Disqualified Equity Interests;
- (j) all net obligations of such Person under any Hedge Agreements; and
- (k) guarantees of items referenced in subsections (a) through to (j) of this definition.

For all purposes hereof, the Debt of any Person shall include the Debt of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person

is a general partner or a joint venturer, (i) unless such Debt is expressly made non-recourse to such Person or (ii) except to the extent such Person's liability for such Debt is otherwise limited in recourse or amount, but only up to the amount of the value of the assets to which recourse is limited or the amount of such limit. In respect of Debt of another Person secured by a Lien on the assets of the specified Person, the amount of such Debt as of any date of determination will be the lesser of (x) the fair market value of such assets as of such date and (y) the amount of such Debt as of such date. The amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Hedge Termination Value thereof as of such date. Debt shall not include, in the case of Borrower and its Subsidiaries, intercompany loans, intercompany advances, or intercompany Debt having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business. Notwithstanding the foregoing, the obligations of the Borrower under any Permitted Warrant Transaction shall not constitute Debt so long as the terms of such Permitted Warrant Transaction provide for "net share settlement" (or substantially equivalent term) as the default "settlement method" (or substantially equivalent term) thereunder. For purposes hereof, the amount of any Permitted Convertible Debt shall be the aggregate stated principal amount thereof without giving effect to any obligation to pay cash or deliver shares with value in excess of such principal amount, and without giving effect to any integration thereof with any Permitted Bond Hedge Transaction pursuant to U.S. Treasury Regulation § 1.1275-6.

**"Debtor Relief Laws"** means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

**"Default"** means an event, circumstance or omission which, with any of the giving of notice or a lapse of time or both would constitute an Event of Default.

**"Defaulting Lender"** means, subject to Section 3.8(b), any Lender that (a) is a Non-Funding Lender, (b) has notified the Borrower, the Agent, the Issuing Lender or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Agent or the Borrower, to confirm in writing to the Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Insolvency Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the FDIC or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets (except, in the case of immunity from

attachment of assets, to the extent the liabilities of such Lender (including judgments against it) are otherwise paid out of, or payable from, a fund of a Governmental Authority which was created and is then maintained for such purpose and is funded in an amount at least sufficient to satisfy such liabilities) or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 3.8(b)) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swingline Lender and each Lender.

“**Deposit Accounts**” as defined in the UCC as in effect in the State of New York.

“**Designated Period**” means the period commencing on the First Amendment Effective Date and ending on the earlier to occur of (a) the date on which the duly executed and completed Compliance Certificate required to be delivered under Section 7.6(a)(iii) is delivered to the Agent for the Fiscal Quarter ending December 31, 2022 (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(ii)), and such certificate demonstrates compliance with Section 9.1 and (b) so long as no Default or Event of Default has occurred and is continuing, to the extent the Borrower delivers a Designated Period Suspension Notice, the date on which the applicable Designated Period Suspension Notice and related Compliance Certificate and financial statements are delivered.

“**Designated Period Actual EBITDA Notice**” means a one-time written notice to the Agent, in form and substance reasonably satisfactory to the Agent, identifying itself as a “Designated Period Actual EBITDA Notice” and confirming the Borrower’s agreement to calculate EBITDA for the four Fiscal Quarter period ending on the last day of the Fiscal Quarter ended immediately prior to the date of delivery of such notice and for each subsequent four Fiscal Quarter period thereafter based on the actual EBITDA as determined without giving effect to the last sentence of EBITDA and without reference to any Annualized EBITDA or Replacement EBITDA Amounts (EBITDA as so calculated, “**Actual EBITDA**”). For the avoidance of doubt, (a) the Designated Period Actual EBITDA Notice may only be delivered by the Borrower one time and shall be delivered concurrently with the delivery of the duly executed and completed Compliance Certificate pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i) or (ii), as applicable) with respect to the Fiscal Quarter or Fiscal Year ended immediately prior to the date such notice is delivered which demonstrates that the Senior Secured Net Leverage Ratio, as of such quarter end and calculated using Actual EBITDA, was equal to or less than 3.25 to 1.00, (b) if the Borrower delivers a Designated Period Actual EBITDA Notice it may not thereafter revoke such notice or deliver a Designated Period Annualized EBITDA Notice and (c) no Designated Period Actual EBITDA Notice may be submitted after the end of the Designated Period.

“**Designated Period Annualized EBITDA Notice**” means a one-time written notice to the Agent, in form and substance reasonably satisfactory to the Agent, identifying itself as a “Designated Period Annualized EBITDA Notice” and confirming the Borrower’s agreement to calculate EBITDA for the four Fiscal Quarter period ending on the last day of the Fiscal Quarter ended immediately prior to the date of delivery of such notice based on Annualized EBITDA and for each subsequent four Fiscal Quarter period thereafter based on Actual EBITDA. For the avoidance of doubt, (a) the Designated Period Annualized EBITDA Notice may only be delivered by the Borrower one time and shall be delivered concurrently with the delivery of the duly executed and completed Compliance Certificate

pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i) or (ii), as applicable) with respect to the Fiscal Quarter or Fiscal Year ended immediately prior to the date such notice is delivered which demonstrates that the Senior Secured Net Leverage Ratio, as of such quarter end and calculated using Annualized EBITDA, was equal to or less than 3.25 to 1.00, (b) if the Borrower delivers a Designated Period Annualized EBITDA Notice it may not thereafter revoke such notice or deliver a Designated Period Actual EBITDA Notice and (c) no Designated Period Annualized EBITDA Notice may be submitted after the end of the Designated Period.

**“Designated Period Suspension Notice”** means either a Designated Period Actual EBITDA Notice or a Designated Period Annualized EBITDA Notice.

**“Disposed EBITDA”** means, with respect to any Person or business that is sold or disposed of in an Asset Sale during any period, the amount for such period of EBITDA of any such Person or business subject to such Asset Sale (determined using such definitions as if references to Borrower and its Subsidiaries therein were to such Person or business), as calculated by the Borrower in good faith.

**“Disqualified Equity Interests”** means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Debt or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Maturity Date.

**“Dollar Equivalent”** means, at any time for the determination thereof, with respect to an amount of an Alternate Currency, the amount of U.S. Dollars which could be purchased with such amount of such Alternate Currency at the spot exchange rate therefor as quoted by Agent as of 11:00 a.m. (New York time) on the date two (2) Business Days prior to the date of any determination thereof for purchase on such date.

**“EBITDA”** means, for any period with respect to Borrower and its consolidated Subsidiaries, an amount equal to:

(a) consolidated net income or net loss for such period as determined in accordance with GAAP; provided, that in calculating consolidated net income or net loss for such period, there shall be excluded the net income (or loss) of any Person that is not a Subsidiary, in which the Borrower or any of its Subsidiaries has a joint interest with a third party, except to the extent such net income is actually paid in cash to the Borrower or any of its Subsidiaries by dividend or other distribution during such period,



*plus the sum*, without duplication, of the amounts for such period of the following (but in each case only to the extent deducted in determining consolidated net income or net loss for such period):

- (i) loss from equity accounted investments and cash fees and expenses incurred in connection with Permitted Investments, recapitalization, the issuance of Equity Interests and the incurrence, repayment or exchange of Debt permitted to be incurred hereunder (including a refinancing thereof), in each case, whether or not successful;
- (ii) provisions for Taxes based on income, profits or capital, including state, franchise and similar Taxes;
- (iii) total interest expense;
- (iv) total depreciation expense;
- (v) total amortization expense (including amortization or write-off of deferred financing fees);
- (vi) write-downs relating to inventories, financing receivables, accounts receivable, property, plant and equipment, joint revenue sharing arrangements, other intangible assets, other assets or investments and film assets, as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (vii) stock option based compensation expenses and other non-cash equity-based compensation expenses;
- (viii) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, including future lease commitments, costs related to the start up, closure, relocation or consolidation of facilities and costs to relocate employees), as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (ix) curtailment of post-retirement benefits;
- (x) expenses during such period relating to pension payments;
- (xi) the amount of any extraordinary, unusual or non-recurring charges, expenses or losses, as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent;
- (xii) other non-cash charges, expenses and losses as approved by Agent, acting consistent with past practice or as otherwise agreed by Agent; and
- (xiii) transaction costs in connection with the Financing Agreements;

*minus*

(b) the *sum*, without duplication, of the amounts for such period of the following (but only to the extent included in determining consolidated net income or net loss for such period):

- (i) interest income;
- (ii) any credit for income tax;
- (iii) any gains from equity accounted investments;
- (iv) the amount of any extraordinary, unusual or non-recurring gains; and
- (v) other non-cash gains and the amount of any non-cash item that was added back in a prior period that becomes a cash item in such period.

For purposes of calculating compliance with the financial covenant in Section 9.1 hereof and the Fixed Incremental Amount, EBITDA shall be calculated (a) without taking into account any contribution to consolidated net income or net loss with respect to (i) any Future Permitted Transaction and (ii) non-cash equity income or loss from joint ventures and (b) to reflect the reduction in EBITDA allocable to minority interests owned in any Subsidiary by arm's length third Persons.

Notwithstanding the foregoing or anything to the contrary contained herein, solely for the purposes of determining compliance with the financial covenant in Section 9.1 and, with respect to clause (b), the Applicable Margin, (a) unless and until the Borrower has delivered a Designated Period Suspension Notice, EBITDA for the Fiscal Quarters ending September 30, 2021 and December 31, 2021 shall be \$32,430,000 and \$46,955,000, respectively (each, respectively, a "**Replacement EBITDA Amount**") and (b) in the event that the Borrower has delivered a Designated Period Annualized EBITDA Notice, EBITDA shall be temporarily annualized using Annualized EBITDA as set forth in the definition of Designated Period Annualized EBITDA Notice.

EBITDA shall be determined on a Pro Forma Basis.

"**EDC Indemnity Agreement**" means the indemnity agreement dated May 3, 2010 given by Borrower in favor of EDC, as amended, modified, supplemented, extended, renewed, restated or replaced from time to time.

"**EEA Financial Institution**" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"**EEA Member Country**" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Electronic Record**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“**Electronic Signature**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

“**Eligible Transferee**” means

- (a) any Lender;
- (l) any Affiliate of such Lender;
- (m) any Approved Fund; and
- (n) any other commercial bank, financial institution or “**accredited investor**” (as defined under Ontario Securities Commission Rule 45-106) approved by Agent and, unless an Event of Default has occurred and is continuing, Borrower (each such approval not to be unreasonably withheld or delayed),

provided, however, that,

- (i) neither Borrower nor any Affiliate of Borrower;
- (ii) nor any natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person);
- (iii) nor any Person that is a competitor of Borrower (if such Person is included on a written list provided by Borrower to Agent prior to or after the Fifth A&R Closing Date, which written list Borrower may update from time to time by providing it to Agent);
- (iv) nor any Defaulting Lender or any of its Subsidiaries;

in each case of the foregoing clauses (i), (ii), (iii) and (iv) shall qualify as an Eligible Transferee (each, a “**Prohibited Transferee**”).

“**EMU Legislation**” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“**Environment**” means ambient air, indoor air, surface water, groundwater, drinking water, land surface and subsurface strata and natural resources such as wetlands, flora and fauna.

“**Environmental Claim**” means any investigation, notice, notice of violation or of potential responsibility, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, natural resources or the environment.

“**Environmental Laws**” means with respect to any Person, all Applicable Laws, permits, licenses and consent decrees imposed by a Governmental Authority relating to pollution or protection of the Environment or protection of human health (to the extent relating to exposure to Hazardous Materials), including laws relating to emissions, discharges, releases or threatened releases of Hazardous Materials into the Environment or otherwise relating to the generation, use, treatment, storage, transport or handling of Hazardous Materials.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of remediation, fines, penalties or indemnities), of any Credit Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage or treatment of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials or (e) any contract, agreement or other binding consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“**Equity Interests**” means (a) in the case of a corporation, capital stock or shares, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person and (f) any and all warrants, rights or options to purchase any of the foregoing; provided that Permitted Convertible Debt, or other debt securities that are or by their terms may be convertible or exchangeable into or for Qualified Equity Interests, or Permitted Warrant Transactions, in each case, shall not constitute capital stock or other Equity Interests prior to settlement, conversion or exchange thereof.

“**ERISA**” means the *Employee Retirement Income Security Act of 1974*, together with all rules, regulations and interpretations thereunder or related thereto.

“**ERISA Affiliate**” means any person required to be aggregated with any Credit Party or any of its Subsidiaries under Sections 414(b), 414(c), 414(m) or 414(o) of the Code.

“**ERISA Event**” means

- (a) any “**reportable event**” as defined in Section 4043(c) of ERISA or the regulations issued thereunder, with respect to a U.S. Pension Plan, other than events as to which the requirement of notice has been waived in regulations by the Pension Benefit Guaranty Corporation;
- (o) the adoption of any amendment to a U.S. Pension Plan or Multiemployer Plan that would require the provision of security pursuant to the Code or ERISA;
- (p) a complete or partial withdrawal by any Credit Party or any ERISA Affiliate from a Multiemployer Plan or a cessation of operations which is treated as such a withdrawal;
- (q) the filing of a notice of intent to terminate a U.S. Pension Plan or Multiemployer Plan under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the

Pension Benefit Guaranty Corporation to terminate a U.S. Pension Plan or Multiemployer Plan;

- (r) an event or condition which would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan;
- (s) the imposition of any liability under Title IV of ERISA, other than the Pension Benefit Guaranty Corporation premiums due but not delinquent under Section 4007 of ERISA, upon any Credit Party or any ERISA Affiliate in excess of \$1,000,000; and
- (t) any other event or condition with respect to any U.S. Pension Plan or Multiemployer Plan subject to Title IV of ERISA maintained, or contributed to, by any ERISA Affiliate in excess of \$1,000,000.

“**Erroneous Payment**” is defined in Section 11.15(a).

“**Erroneous Payment Notice**” is defined in Section 11.15(b).

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor thereto), as in effect from time to time.

“**Euribor**” means the greater of (a) the rate *per annum* determined on the basis of the rate for deposits in Euros equal to the Euro Interbank Offered Rate as administered by the European Money Markets Institute, or a comparable or successor administrator approved by the Agent, for a period comparable to the applicable Interest Period, at approximately 11:00 a.m. (Brussels time) on the Rate Determination Date and (b) the Floor.

“**Euro**” means the single currency of the participating member states as described in any EMU Legislation.

“**Eurocurrency Banking Day**” means, for Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros, a TARGET Day; provided, that for purposes of notice requirements in Sections 2.4(c), 3.1(g) and 3.1(h), in each case, such day is also a Business Day.

“**Eurocurrency Rate**” means, subject to the implementation of a Benchmark Replacement in accordance with Section 3.2(c), for any Eurocurrency Rate Loan for any Interest Period:

- (a) for any Revolving Loans denominated in Euros, Euribor; and
- (u) for any Revolving Loans denominated in an Alternate Currency (other than Canadian Dollars and Euros), such rate *per annum* as shall be agreed upon by Agent, Borrower and the Revolving Lenders.

“**Eurocurrency Rate Loans**” means any Revolving Loans or portion thereof denominated in an Alternate Currency (other than Canadian Dollars) and on which interest is payable based on the Adjusted Eurocurrency Rate in accordance with the terms hereof.

“**Eurocurrency Reserve Percentage**” means, for any day, the percentage which is in effect for such day as prescribed by the FRB for determining the maximum reserve requirement (including any basic, supplemental or emergency reserves) in respect of eurocurrency liabilities or any similar category of liabilities for a member bank of the Federal Reserve System in New York City or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans. The Adjusted Eurocurrency Rate for each outstanding Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

“**Event of Default**” is defined in Section 10.1.

“**Excluded Accounts**” means, collectively, (a) Deposit Accounts or Securities Accounts established solely for the purpose of funding payroll, payroll taxes and other compensation and benefits to employees, (b) Deposit Accounts established as withholding tax, trust, escrow or fiduciary accounts, (c) Deposit Accounts that are zero balance accounts that are swept daily into Deposit Accounts that are subject to Control Agreements or into other Excluded Accounts, (d) Deposit Accounts maintained at the Agent and (e) Deposit Accounts or Securities Accounts with amounts on deposit that, when aggregated with the amounts on deposit in all other Deposit Accounts or Securities Accounts for which Control Agreements have not been obtained (other than those specified in clauses (a), (b), (c) and (d)), do not exceed \$3,000,000 at any time.

“**Excluded Swap Obligation**” means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the liability of such Credit Party for or the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any liability or guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Credit Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the liability for or the guarantee of such Credit Party or the grant of such security interest becomes effective with respect to such Swap Obligation (such determination being made after giving effect to any applicable keepwell, support or other agreement for the benefit of the applicable Credit Party, including under the keepwell provisions in the applicable Financing Agreement). If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal for the reasons identified in the immediately preceding sentence of this definition.

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, United States federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by Borrower under Section 3.6(b)) or (ii) such Lender changes its

Lending Office, except in each case to the extent that, pursuant to Section 3.5, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.5(g), (d) any Taxes imposed under FATCA and (e) any Taxes that are required to be deducted or withheld under the ITA or in respect of any payment or deemed payment under the ITA, to or for the benefit of any Recipient (i) with which the payor does not deal at arm's length for purposes of the ITA at the time of the making of the payment or deemed payment (except where such non-arm's length relationship arises solely in connection with or as result of the Recipient having become party to, received or perfected a security interest under, or received or enforced any rights under, any Financing Agreement) or (ii) that is a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the applicable Credit Party at any relevant time or does not deal at arm's length for purposes of the ITA with a "specified shareholder" (as defined in subsection 18(5) of the ITA) of the applicable Credit Party at any relevant time (except where such status arises solely in connection with or as result of the Recipient having become party to, received or perfected a security interest under, or received or enforced any rights under, any Financing Agreement).

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

"**FDIC**" means the Federal Deposit Insurance Corporation.

"**Federal Funds Rate**" means, for any day, the rate *per annum* equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that if such rate is not so published for any day which is a Business Day, the Federal Funds Rate for such day shall be the average of the quotation for such day on such transactions received by Agent from three (3) federal funds brokers of recognized standing selected by Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement.

"**Fee Letter**" means that certain engagement letter dated as of February 25, 2022 between Borrower and Arranger.

"**Fifth A&R Closing Date**" means June 28, 2018.

"**Financing Agreements**" means, collectively, this Agreement, the Fee Letter and all notes, guarantees, security agreements and other agreements, documents and instruments previously, now or at any time hereafter executed and/or delivered by any Credit Party in connection with this Agreement, in each case, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, but excluding any Secured Hedge Agreement and Secured Cash Management Agreement.

"**First Amendment Effective Date**" means June 10, 2020.

“**Fiscal Quarter**” means each of the following 3 month periods in any Fiscal Year of Borrower: January 1 to March 31, April 1 to June 30, July 1 to September 30 and October 1 to December 31.

“**Fiscal Year**” means the fiscal year of Borrower being the twelve (12) month period of January 1 to December 31.

“**Fixed Incremental Amount**” means, at any time, (a) an amount equal to the greater of (i) \$140,000,000 and (ii) the EBITDA of Borrower and its consolidated Subsidiaries for the four (4) Fiscal Quarter period most recently ended for which a Compliance Certificate has been executed and delivered by Borrower to Agent less (b) the aggregate principal amount of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Fixed Incremental Amount prior to such time; provided further that during the Designated Period the Fixed Incremental Amount shall be reduced to \$50,000,000 less the aggregate principal of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Fixed Incremental Amount during the Designated Period prior to such time.

“**Flood Insurance Laws**” means, collectively, (a) the National Flood Insurance Act of 1968, (b) the Flood Disaster Protection Act of 1973, (c) the National Flood Insurance Reform Act of 1994, (d) the Flood Insurance Reform Act of 2004 and (e) the Biggert-Waters Flood Insurance Reform Act of 2012, as each of the foregoing is now or hereafter in effect and any successor statute to any of the foregoing.

“**Floor**” means a rate of interest equal to 0%.

“**FRB**” means the Board of Governors of the Federal Reserve System of the United States.

“**Fronting Exposure**” means, at any time there is a Defaulting Lender, (a) with respect to any Issuing Lender, such Defaulting Lender’s Pro Rata Share of the outstanding obligations with respect to Letter of Credit Accommodations issued by such Issuing Lender, other than such obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or cash collateralized in accordance with the terms hereof and (b) with respect to the Swingline Lender, such Defaulting Lender’s Pro Rata Share of outstanding Swingline Loans other than Swingline Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or cash collateralized in accordance with the terms hereof.

“**Fund**” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its activities.

“**Future Permitted Transaction**” means any infrequent or unusual transaction requested by Borrower to be designated as such to the extent any such transaction has been pre-approved in writing by Agent and Required Lenders.

“**GAAP**” means generally accepted accounting principles in the United States of America and as in effect from time to time (for all other purposes of the Agreement), including those forth in the opinions and pronouncements of the relevant U.S. public and private accounting boards and institutes which are applicable to the circumstances as of the date of determination consistently applied. If at any time any change in GAAP or the application thereof would affect the computation or interpretation of any financial ratio, basket, requirement or other provision set forth in any Financing Agreement, and either



the Borrower or the Required Lenders shall so request, the Agent and the Borrower shall negotiate in good faith to amend such ratio, basket, requirement or other provision to preserve the original intent thereof in light of such change in GAAP or the application thereof (subject to the approval of the Required Lenders not to be unreasonably withheld, conditioned or delayed).

“**General Security Agreement**” means the amended and restated general security agreement dated November 16, 2009 entered into by Borrower in favor of Agent, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**Governmental Authority**” means any government, parliament, legislature, municipal or local government, or any regulatory authority, agency, commission or board of any government, parliament or legislature, or any court or (without limitation to the foregoing) any other law, regulation or rule-making entity (including any central bank, fiscal or monetary authority regulating banks), having or purporting to have jurisdiction in the relevant circumstances, or any Person acting or purporting to act under the authority of any of the foregoing (including any arbitrator).

“**Guarantors**” means, other than Borrower, any guarantor, endorser, acceptor, surety or other person liable on or with respect to the Obligations or who is the owner of any property which is security for the Obligations, including:

- (a) IMAX U.S.A. Inc., a Delaware corporation;
- (v) 1329507 Ontario Inc., an Ontario corporation;
- (w) IMAX II U.S.A. Inc., a Delaware corporation;
- (x) IMAX Post/DKP Inc., a Delaware corporation;
- (y) IMAX Barbados; and
- (z) IMAX Ireland.

“**Hazardous Materials**” means any chemical, material, substance, waste, pollutant or contaminant, or compound in any form of any nature, including petroleum and petroleum products, asbestos and asbestos-containing materials, regulated pursuant to any Environmental Law.

“**Hedge Agreement**” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, all as amended, modified, supplemented, extended, renewed, restated or replaced

from time to time. For the avoidance of doubt, the term “Hedge Agreement” shall not include the agreements and arrangements entered into to effect a Permitted Bond Hedge Transaction or a Permitted Warrant Transaction.

“**Hedge Bank**” means any Person that at the time it enters into a Hedge Agreement is a Lender, an Affiliate of a Lender, Agent or an Affiliate of Agent, in its capacity as a party to such Hedge Agreement.

“**Hedge Termination Value**” means, in respect of any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include Agent, a Lender or any Affiliate thereof).

“**Hong Kong JV Guarantee**” means the unsecured guarantee dated January 6, 2014 issued by Borrower to Sino Leader (Hong Kong) Limited.

“**IMAX Barbados**” means IMAX (Barbados) Holding, Inc., a Barbados corporation.

“**IMAX Cayman**” means IMAX China Holding, Inc., a Cayman Islands exempted company.

“**IMAX China Credit Facility**” means a secured credit facility provided by third party lenders to IMAX Cayman, IMAX China HK and/or IMAX China Multimedia.

“**IMAX China Guarantee**” means an unsecured guarantee issued by Borrower of the obligations, liabilities and indebtedness of any borrower that is a Subsidiary of Borrower under the IMAX China Credit Facility in an amount not to exceed \$5,000,000.

“**IMAX China HK**” means IMAX China (Hong Kong), Limited.

“**IMAX China Multimedia**” means IMAX (Shanghai) Multimedia Technology Co., Ltd., a People’s Republic of China corporation.

“**IMAX China Theatre**” means IMAX (Shanghai) Theatre Technology Services Co., Ltd., a People’s Republic of China corporation.

“**IMAX Film Fund**” means IMAX Documentary Films Capital, LLC.

“**IMAX Film Fund Put**” means the Production, Financing and Distribution Agreement dated as of May 12, 2014, by and between IMAX Film Holding Co. and IMAX Film Fund.

“**IMAX HK**” means IMAX (Hong Kong) Holding, Limited, a Subsidiary of Borrower and a Hong Kong corporation.

“**IMAX Ireland**” means IMAX Theatres International Limited, an Irish company.

“**Increased Amount Date**” is defined in Section 2.6(b).

“**Increased-Cost Lender**” is defined in Section 3.6(a).

“**Incremental Equivalent Debt**” is defined in Section 8.3(y).

“**Incremental Lender**” is defined in Section 2.6(c).

“**Incremental Loan Commitments**” is defined in Section 2.6(a)(ii).

“**Incremental Loans**” is defined in Section 2.6(a)(ii).

“**Incremental Revolving Loan Commitment**” is defined in Section 2.6(a)(ii).

“**Incremental Revolving Loan Increase**” is defined in Section 2.6(a)(ii).

“**Incremental Term Loan**” is defined in Section 2.6(a)(i).

“**Incremental Term Loan Commitment**” is defined in Section 2.6(a)(i).

“**Indemnified Taxes**” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of Borrower under this Agreement and any other documents entered into in connection herewith and (b) to the extent not otherwise described in clause (a), Other Taxes.

“**Indemnitee**” is defined in Section 12.5.

“**Information Certificate**” means the Information Certificate substantially in the form of Exhibit C hereto provided by or on behalf of each Credit Party to Agent in connection with the Financing Agreements.

“**Insolvency Laws**” means any of the Bankruptcy Code, BIA, the CCAA (Canada), the *Winding-Up and Restructuring Act* (Canada), and any similar Debtor Relief Laws of any applicable jurisdiction (including common law or equity and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it) now or hereafter in effect relating to bankruptcy, insolvency, receivership, liquidation, dissolution, winding-up, restructuring or reorganization of debtors (including provisions of any applicable corporations legislation dealing with the restructuring or rearrangement of debts), compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors generally (or any class of creditors), or composition of any debtor or its indebtedness.

“**Insolvency Proceeding**” means any proceeding commenced by or against any Person under any provision of Insolvency Law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

“**Intellectual Property Office**” means the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office, as applicable.

“**Intercreditor Agreement**” means an intercreditor agreement that is reasonably satisfactory to Agent and entered into by Agent pursuant to Section 11.10(d), as amended, modified, extended, renewed, restated or replaced from time to time.

“**Interest Period**” means, as to any CDOR Rate Loans, Eurocurrency Rate Loan or Term SOFR Loan, the period commencing on the date such Loan is disbursed or converted to or continued as a CDOR Rate Loan, Eurocurrency Rate Loan or Term SOFR Loan, as applicable, and ending on the date one (1), three (3) or (except with respect to any CDOR Rate Loan) six (6) months thereafter, in each case as selected by the Borrower in its Notice of Borrowing or Notice of Conversion/Continuation and subject to availability; provided that:

(a) the Interest Period shall commence on the date of advance of or conversion to any CDOR Rate Loan, Eurocurrency Rate Loan or Term SOFR Loan, as applicable, and, in the case of immediately successive Interest Periods, each successive Interest Period shall commence on the date on which the immediately preceding Interest Period expires;

(b) if any Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; provided that if any Interest Period would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day;

(c) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the relevant calendar month at the end of such Interest Period;

(d) no Interest Period shall extend beyond the Maturity Date; and

(e) no tenor that has been removed from this definition pursuant to Section 3.2(c)(iv) shall be available for specification in any Notice of Borrowing or Notice of Conversion/Continuation.

“**Interest Rate**” means:

(a) as to Term SOFR Loans, the Adjusted Term SOFR plus the Applicable Margin *per annum*; or

(aa) as to U.S. Base Rate Loans, the U.S. Base Rate plus the Applicable Margin *per annum*; or

(bb) as to Eurocurrency Rate Loans, the Adjusted Eurocurrency Rate plus the Applicable Margin *per annum*; or

(cc) as to any CDOR Rate Loans, the CDOR Rate plus the Applicable Margin *per annum*; or

(dd) as to Canadian Prime Rate Loans, the Canadian Prime Rate plus the Applicable Margin *per annum*; or

- (ee) notwithstanding the rates described in clause (a) through (e) above, the rate of 2% *per annum* in excess of the applicable Interest Rate described above and all fees payable in connection herewith shall apply (and shall be payable on demand by Agent):
- (i) automatically upon the occurrence and continuation of a Payment/Insolvency Event of Default; and
  - (ii) at the election of Required Lenders (or Agent at the direction of Required Lenders) upon the occurrence and continuation of any other Event of Default.

“**Investment**” is defined in Section 8.4.

“**IP Collateral**” means all of the Intellectual Property as such term is defined in the General Security Agreement.

“**IP Collateral License Agreement**” means the amended and restated intellectual property license agreement dated November 16, 2009 granting Agent and its successors, transferees and assignees, a non-exclusive, royalty free perpetual license to the IP Collateral, but effective only upon the occurrence and continuance of an IP Grace Period, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**IP Grace Period**” means the period commencing on the date upon which Agent exercises its remedies pursuant to Section 10.2(a) and/or Section 10.2(b) hereof and ending 120 days thereafter.

“**Issuing Lender**” means with respect to Letter of Credit Accommodations issued hereunder, Wells Fargo, in its capacity as issuer thereof, or any successor thereto.

“**ITA**” means the *Income Tax Act*, R.S.C. 1985, c. (5<sup>th</sup> Supplement).

“**Lender Joinder Agreement**” means a joinder agreement in form and substance reasonably satisfactory to Agent and executed and delivered in connection with Section 2.6.

“**Lenders**” means each Person executing this Agreement as a Lender on the Restatement Effective Date (including the Swingline Lender) and any other Person that becomes a party hereto as a Lender pursuant to an Assignment and Assumption Agreement or the relevant Lender Joinder Agreement, other than any Person that ceases to be a party hereto as a Lender pursuant to an Assignment and Assumption Agreement.

“**Lending Office**” means, with respect to any Lender, the office of such Lender maintaining such Lender’s Loans.

“**Letter of Credit Accommodations**” means the letters of credit, merchandise purchase or other guarantees denominated in U.S. Dollars which are from time to time either (a) issued or opened by Issuing Lender for the account of Borrower or any Credit Party or (b) with respect to which Issuing Lender has agreed to indemnify the issuer or guaranteed to the issuer the performance by any Credit Party of its obligations to such issuer, and shall include the existing letters of credit, merchandise purchase and other guarantees issued and currently outstanding under the Fifth Amended and Restated Credit Agreement.

“**Letter of Credit Accommodations Sublimit**” is defined in Section 2.2(c).

“**License Agreements**” shall have the meaning set forth in the General Security Agreement.

“**Lien**” means any security interest, mortgage, pledge, hypothec, lien, charge or other lien of any nature whatsoever (including those created by statute); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

“**Liquidity**” means as of any date of determination, the sum of (a) the aggregate amount of (i) unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of such date of determination less (ii) any such amounts domiciled in the People’s Republic of China plus (b) the aggregate Revolving Loan Commitments as of such date less the Revolving Loan Exposure as of such date.

“**Loans**” means, collectively, the Revolving Loans, the Swingline Loans and, if applicable, the Incremental Term Loans.

“**Material Acquisition**” means any transaction, or any series of related transactions, which is a Permitted Investment consummated on or after the Restatement Effective Date, by which any Credit Party or any of its Subsidiaries:

- (a) (i) acquires any business or all or substantially all of the assets of any Person, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of members of the board of directors or the equivalent governing body (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company (each an “**Acquisition**”); and
- (ff) the consideration payable for such Acquisition is equal to or greater than the lesser of (i) \$100,000,000 and (ii) twenty-five percent (25%) of TTM Revenue (other than any consideration paid for by the issuance of Equity Interests and/or using the proceeds received from the sale of Equity Interests).

“**Material Adverse Effect**” means, with respect to Borrower and its Subsidiaries, (a) a material adverse effect on the properties, business, operations, liabilities (actual or contingent) or financial condition of any such Persons, taken as a whole, (b) a material adverse effect on the ability of any such Persons, taken as a whole, to perform their respective obligations under the Financing Agreements to which any of the Credit Parties is a party, (c) a material adverse effect on the rights and remedies of Agent or the Lenders under any Financing Agreements or (d) a material adverse effect on the legality, validity, binding effect or enforceability against any Credit Party of any Financing Agreement to which it is a party.

“**Material Real Property**” means any real property owned in fee simple (or local law equivalent) and acquired by a Credit Party after the Fifth A&R Closing Date with a market value or purchase price in excess of \$5,000,000; provided that, for the avoidance of doubt, neither the Mississauga Property nor the Playa Vista Property shall constitute “Material Real Property.”

“**Material Subsidiary**” means any Subsidiary of any Credit Party that accounts for greater than 10% of the revenues of Borrower on a consolidated basis other than (a) IMAX China Multimedia, IMAX China Theatre, IMAX China HK, Playa Vista Borrower and IMAX Cayman and its Subsidiaries; (b) a Subsidiary that is not wholly owned directly by a Credit Party or one or more of its wholly owned Subsidiaries; (c) a charitable or not-for-profit Subsidiary reasonably designated as such by Borrower; (d) any Subsidiary that is prohibited by Applicable Law, or by any contractual obligation from guaranteeing the applicable Obligations or which would require governmental and/or regulatory consent, approval, license or authorization to provide such guarantee, unless such consent, approval, license or authorization has been received (provided Borrower agrees to use commercially reasonable efforts to obtain such contractual or governmental consent and/or regulatory consent, approval, license or authorization if reasonably requested by Agent), or which would result in material adverse tax consequences to any Credit Party and/or any of its Subsidiaries as reasonably determined by Borrower and Agent; (e) any Subsidiary that is created solely for the purpose of consummating a transaction pursuant to an acquisition permitted hereunder but only until such transaction is consummated, if such new Subsidiary at no time holds any assets or liabilities other than any merger or amalgamation consideration contributed to it contemporaneously with the closing of such transactions; (f) any Subsidiary acquired pursuant to a Permitted Investment and financed with secured Debt permitted to be incurred hereunder as assumed Debt (and not incurred in contemplation of such acquisition), and each Subsidiary acquired in such Permitted Investments that guarantees such Debt, in each case to the extent that, and for so long as, the documentation relating to such Debt to which such Subsidiary is a party prohibits such Subsidiary from guaranteeing the Obligations and such prohibition was not created in contemplation of such Permitted Investment; and (g) any other Subsidiary with respect to which, in the reasonable judgment of Borrower (as agreed to in writing by Agent), the cost or other consequences of guaranteeing the Obligations would be excessive in view of the benefits to be obtained by the Lenders therefrom.

“**Maturity Date**” means the earlier of:

- (a) demand for payment under Section 10.2; and
- (gg) the 5th anniversary of the Restatement Effective Date.

“**Maximum Incremental Amount**” means, collectively, the Fixed Incremental Amount, the Ratio Incremental Amount and the Voluntary Prepayment Amount; provided that the order and combination of the utilization of any component of the Maximum Incremental Amount shall be directed by Borrower in writing in its sole discretion subject to the terms of this Agreement on or prior to the date any commitment therefor is entered into and if not so directed shall be deemed to have been incurred in reliance first on the Ratio Incremental Amount, second on the Voluntary Prepayment Amount and third on the Fixed Incremental Amount; provided further that during the Designated Period the Maximum Incremental Amount shall not exceed the Fixed Incremental Amount.

“**Mississauga Property**” means the property located at 2525 Speakman Drive, Mississauga, Ontario L5K 1B1 legally owned by 1329507 Ontario Inc. and beneficially owned by Borrower.

“**Mortgages**” means the collective reference to each mortgage, deed of trust or other real property security document, encumbering any real property now or hereafter owned by any Credit Party, in each case, in form and substance reasonably satisfactory to Agent and executed by such Credit Party in favor

of Agent, for the ratable benefit of the Secured Parties, as any such document now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

“**Multiemployer Plan**” means a “**multi-employer plan**” as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding 6 years contributed to by Borrower or any ERISA Affiliate or with respect to which Borrower or any ERISA Affiliate may incur any liability.

“**Non-Consenting Lender**” means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 11.14 and (b) has been approved by the Required Lenders.

“**Non-Defaulting Lender**” means, at any time, each Revolving Lender that is not a Defaulting Lender at such time.

“**Non-Funding Lender**” means any Lender that has failed to (a) fund all or any portion of the Revolving Loans or any Incremental Term Loan required to be funded by it hereunder within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Agent and the Borrower in writing that such failure is the result of such Lender’s good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (b) pay to the Agent, any Issuing Lender, the Swingline Lender or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due.

“**Notice of Borrowing**” means a notice of borrowing substantially in the form attached as Exhibit D hereto.

“**Notice of Conversion/Continuation**” means a notice of conversion/continuation substantially in the form attached as Exhibit E hereto.

“**Notice of Prepayment**” means a notice of prepayment substantially in the form attached as Exhibit F hereto.

“**Obligations**” means any and all Loans, Letter of Credit Accommodations and all other obligations, liabilities and indebtedness of every kind, nature and description owing by any Credit Party to Agent, Lenders and their respective Affiliates including principal, interest, charges, indemnifications for Letter of Credit Accommodations or otherwise, fees, costs and expenses, however evidenced, whether as principal or otherwise, arising under or in connection with the Financing Agreements, Secured Hedge Agreements and Secured Cash Management Agreements, as amended, modified, supplemented, extended, renewed, restated, replaced or superseded, in whole or in part, from time to time and/or Applicable Laws, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any proceeding with respect to any Credit Party under Insolvency Laws (including the payment of interest and other amounts which would accrue and become due but for the commencement of such proceeding, whether or not such amounts are allowed or allowable in whole or in part in such proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured; provided that the “Obligations” of a Credit Party shall exclude any Excluded Swap Obligations with respect to such Credit Party. For greater certainty, the obligations, liabilities and



indebtedness owing under or in connection with the BMO and National Bank Facilities are not included in “**Obligations**”.

“**OFAC**” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“**Operating Lease**” means, as to any Person as determined in accordance with GAAP, any lease of property (whether real, personal or mixed) by such Person as lessee which is not a capital or finance lease.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced this Agreement and any other documents entered into in connection herewith, or sold or assigned an interest in any Loan or this Agreement and any other documents entered into in connection herewith).

“**Other Currency**” is defined in Section 13.6.

“**Other Taxes**” means all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement and any other documents entered into in connection herewith, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.6(b)).

“**Participant Register**” is defined in Section 11.1(g) hereof.

“**Patriot Act**” means the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001*, Pub. L. 107-56, signed into law October 26, 2001.

“**Payment/Insolvency Event of Default**” means the occurrence and continuation of any Event of Default pursuant to Section 10.1(a)(i) and (ii), 10.1(i) or 10.1(j).

“**Pension Plans**” means each of the registered pension plans within the meaning of subsection 248(1) of the ITA, if any, which any Credit Party sponsors or administers or into which any Credit Party makes contributions or is obligated to make contributions.

“**Permitted Bond Hedge Transaction**” means any bond hedge, call or capped call option (or substantively equivalent derivative transaction) relating to the Borrower’s common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) purchased by any Credit Party in connection with the issuance of any Permitted Convertible Debt and settled in common stock of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower; provided that the purchase price for such Permitted Bond Hedge Transaction, less the proceeds received by the Borrower from the sale of any substantially concurrently executed Permitted Warrant Transaction, does not exceed the net cash proceeds received by the

Borrower or any other Credit Party from the sale of the Permitted Convertible Debt in connection with which such Permitted Bond Hedge Transaction was purchased; provided further that the other terms, conditions and covenants of each such transaction shall be such as are customary for transactions of such type (as determined by the Borrower in good faith).

“**Permitted Convertible Debt**” means unsecured Debt of a Credit Party that (a) as of the date of issuance thereof contains customary conversion or exchange rights and customary offer to repurchase rights for transactions of such type (in each case, as determined by the Borrower in good faith) and (b) is convertible or exchangeable into shares of common stock of the Borrower (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower.

“**Permitted Debt**” means, collectively, the Debt of Borrower and its Subsidiaries permitted pursuant to Section 8.3.

“**Permitted Investments**” means, collectively, the Investments permitted pursuant to Section 8.4.

“**Permitted Liens**” means, collectively, the Liens permitted pursuant to Section 8.2.

“**Permitted Refinancing**” means any renewals, exchanges, extensions, refinancings and refunding of Debt; provided that:

- (a) any such renewal, exchange, extension, refinancing or refunding is in an aggregate principal amount not greater than the principal amount (or accreted value, if applicable) of the aggregate principal amount of the Debt being renewed exchanged, extended or refinanced or refunded outstanding at such time (*plus* accrued interest, any reasonable premium and reasonable commission, fees and expenses);
- (b) the Debt resulting from such renewal, exchange, extension, refinancing or refunding has a stated maturity date that is at least 91 days after the Maturity Date and the Weighted Average Life to Maturity of the Debt resulting from such renewal, exchange, extension, refinancing or refunding is not shorter than the Weighted Average Life to Maturity of the Debt being renewed exchanged, extended, refinanced or refunded;
- (c) with respect to which any Liens securing the Debt resulting from such renewal, exchange, extension, refinancing or refunding are limited to the assets or property that secured or would have secured the Debt being renewed, exchanged, extended, refinanced or refunded and without any change in the Lien priority with respect to such assets or property subject to such Liens; provided that any such Lien may be subordinated on terms satisfactory to Agent;
- (d) no obligor that was not obligated with respect to the Debt that is renewed, exchanged, extended, refinanced or refunded shall become obligated with respect to the Debt resulting from such renewal, exchange, extension, refinancing or refunding;

- (e) if the Debt that is renewed, exchanged, extended, refinanced or refunded was subordinated in right of payment to the Obligations, then the terms and conditions of the Debt resulting from such renewal, exchange, extension, refinancing or refunding must include subordination terms and conditions that are at least as favorable to the Lenders as those that were applicable to the renewed, exchanged, extended, refinanced or refunded Debt; and
- (f) the Debt resulting from such renewal, exchange, extension, refinancing or refunding shall be on terms no more materially restrictive on such obligors than the Debt being renewed, exchanged, extended, refinanced or refunded.

“**Permitted Warrant Transaction**” means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) relating to the Borrower’s common stock (or other securities or property following a merger event, reclassification or other change of the common stock of the Borrower) sold by the Borrower substantially concurrently with any purchase by a Credit Party of a Permitted Bond Hedge Transaction and settled in common stock of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower’s common stock or such other securities or property), and cash in lieu of fractional shares of common stock of the Borrower; provided that the terms, conditions and covenants of each such transaction shall be such as are customary for transactions of such type (as determined by the Borrower in good faith).

“**Person**” or “**person**” means any individual, sole proprietorship, corporation, partnership, limited partnership, corporation, limited liability company, business trust, unincorporated association, joint stock corporation, trust, joint venture or other entity or any government or any agency or instrumentality or political subdivision thereof.

“**Plan**” means an employee benefit plan (as defined in Section 3(3) of ERISA) which Borrower or any ERISA Affiliate sponsors, maintains, or to which it makes, is making, or is obligated to make contributions or, in the case of a Multiemployer Plan, has made contributions at any time during the immediately preceding 6 plan years or with respect to which Borrower may incur liability. For greater certainty, “**Plan**” does not include a Pension Plan that is not a U.S. Pension Plan.

“**Playa Vista Borrower**” means IMAX PV Development Inc., a wholly-owned subsidiary of Borrower.

“**Playa Vista Property**” means the property located at 12582 West Millennium, Playa Vista, California 90094 owned by Playa Vista Borrower.

“**PPSA**” means the *Personal Property Security Act (Ontario)*; provided that, if the attachment, perfection or priority of Agent’s security in respect of any Collateral is governed by the laws of any jurisdiction other than Ontario, PPSA shall mean those other laws for the purposes hereof relating to attachment, perfection or priority.

“**Pro Forma Basis**” means

- (a) for purposes of calculating EBITDA for any period during which one or more Acquisitions or Asset Sales (other than Asset Sales in the ordinary course of business of the Borrower and its Subsidiaries) occurs, that (i) such Acquisition or Asset Sale (and all other such Acquisitions or

Asset Sales that have been consummated during the applicable period) shall be deemed to have occurred as of the first day of the applicable period of measurement, (ii) there shall be included in determining EBITDA for such period, without duplication, the Acquired EBITDA of any Person or business, or attributable to any property or asset, acquired by the Borrower or any Subsidiary during such period (but not the Acquired EBITDA of any related Person or business or any Acquired EBITDA attributable to any assets or property, in each case to the extent not so acquired) in connection with an Acquisition to the extent not subsequently sold, transferred, abandoned or otherwise disposed of by the Borrower or such Subsidiary during such period, based on the actual Acquired EBITDA of such acquired entity or business for such period (including the portion thereof occurring prior to such Acquisition) and (iii) there shall be excluded in determining EBITDA for such period, without duplication, the Disposed EBITDA of any Person or business, or attributable to any property or asset, disposed of by the Borrower or any Subsidiary during such period in connection with any such Asset Sale or discontinuation of operations, based on the Disposed EBITDA of such disposed entity or business or discontinued operations for such period (including the portion thereof occurring prior to such disposition or discontinuation); provided that the foregoing amounts shall be without duplication of any adjustments that are already included in the calculation of EBITDA;

(b) for purposes of calculating Consolidated Total Assets any Acquisition or Asset Sale that occurs after the date of the most recent consolidated balance sheet of Borrower and its Subsidiaries, shall be deemed to have occurred on the date of such balance sheet; and

(c) in the event that the Borrower or any Subsidiary thereof incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement, discharge, defeasance or extinguishment) any Debt included in the calculations of any financial ratio or test (in each case, other than Debt incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable measurement period or (ii) subsequent to the end of the applicable measurement period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then such financial ratio or test shall be calculated giving *pro forma* effect to such incurrence or repayment of Debt, to the extent required, as if the same had occurred on the first day of the applicable measurement period and any such Debt that is incurred (including by assumption or guarantee) that has a floating or formula rate of interest shall have an implied rate of interest for the applicable period determined by utilizing the rate which is or would be in effect with respect to such Debt as of the relevant date of determination.

“**Pro Rata Share**” means with respect to a Lender:

- (a) with respect to all Revolving Loans or participations in respect of Letter of Credit Accommodations or Swingline Loans, the percentage obtained by dividing (i) the aggregate Revolving Loan Commitments of such Lender by (ii) the aggregate Revolving Loan Commitments of all Lenders;
- (hh) with respect to all Revolving Loans on and after the Maturity Date, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Revolving Loans held by such Lender by (ii) the outstanding principal balance of the Revolving Loans held by all Lenders;

- (ii) with respect to all Incremental Term Loans prior to the termination of the Incremental Term Loan Commitments, the percentage obtained by dividing (i) the aggregate Incremental Term Loan Commitments of such Lender by (ii) the aggregate Incremental Term Loan Commitments of all Lenders;
- (jj) with respect to all Incremental Term Loans on and after the Maturity Date or after the termination of the Incremental Term Loan Commitments, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Incremental Term Loans held by such Lender by (ii) the outstanding principal balance of the Incremental Term Loans held by all Lenders; and
- (kk) with respect to all Loans on and after the Maturity Date, the percentage obtained by dividing (i) the aggregate outstanding principal balance of the Loans held by such Lender by (ii) the outstanding principal balance of the Loans held by all Lenders.

“**Prohibited Transferee**” is defined in the definition of Eligible Transferee.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Qualified Equity Interests**” means any Equity Interests that are not Disqualified Equity Interests.

“**Rate Determination Date**” means, with respect to any Interest Period, two (2) Eurocurrency Banking Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in the applicable interbank market, as determined by the Agent; provided that to the extent that such market practice is not administratively feasible for the Agent, such other day as otherwise reasonably determined by the Agent).

“**Ratio Debt**” is defined in Section 8.3(m).

“**Ratio Debt Test**” is defined in Section 8.3(m).

“**Ratio Incremental Amount**” means, at any time, the maximum amount of Debt that could be incurred at such time by Borrower so long as on a Pro Forma Basis, after giving effect to the incurrence of any applicable Incremental Term Loan Commitment or Incremental Term Loans, (a) in the case of secured Debt, the Senior Secured Net Leverage Ratio does not exceed 2.50:1.00 (as calculated by Borrower in a Compliance Certificate executed and delivered by Borrower to Agent) and (b) in all other cases, the Ratio Debt Test is satisfied.

“**Receiver**” is defined in Section 10.2(f).

“**Recipient**” means (a) Agent, (b) any Lender and (c) any Issuing Lender, as applicable.

“**Records**” means all of each Credit Party’s present and future books of account of every kind or nature, purchase and sale agreements, invoices, ledger cards, bills of lading and other shipping evidence, statements, correspondence, memoranda, credit files and other data relating to the Collateral or any account debtor, together with the tapes, disks, diskettes and other data and software storage media and

devices, file cabinets or containers in or on which the foregoing are stored (including any rights of a Credit Party with respect to the foregoing maintained with or by any other person).

“**Register**” is defined in Section 11.1(h) hereof.

“**Relevant Governmental Body**” means (a) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, U.S. Dollars, the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto and (b) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, any Alternate Currency, (i) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (ii) any working group or committee officially endorsed or convened by (A) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, (B) any central bank or other supervisor that is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

“**Replacement EBITDA Amount**” is defined in the definition of EBITDA.

“**Report**” is defined in Section 11.9(a).

“**Required Lenders**” means, on any date of determination, (a) Lenders holding more than 50% of the Commitments or (b) on and after the Maturity Date, Lenders holding more than 50% of the outstanding Loans. The Commitments and outstanding Loans of Defaulting Lenders shall be excluded from the calculation of Required Lenders. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” means, as to any Person, the chief executive officer, president, chief financial officer, controller, treasurer or assistant treasurer of such Person or any other officer of such Person designated in writing by the Borrower or such Person and reasonably acceptable to the Agent; provided that, to the extent requested thereby, the Agent shall have received a certificate of such Person certifying as to the incumbency and genuineness of the signature of each such officer. Any document delivered hereunder or under any other Financing Agreement that is signed by a Responsible Officer of a Person shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other relevant action on the part of such Person and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Person.

“**Restatement Effective Date**” means March 25, 2022.

“**Restricted Payment**” is defined in Section 8.5.

**“Revolving Lenders”** means, at any time, collectively, all Lenders with a Revolving Loan Commitment at such time (and after the termination of all Revolving Loan Commitments, any Lender that holds any outstanding amount in respect of Revolving Loans). Unless the context otherwise requires, the term “Lenders” includes Swingline Lender.

**“Revolving Loan Commitment”** means (a) as to any Revolving Lender with respect to Revolving Loans, the aggregate of such Revolving Lender’s Revolving Loan Commitment as set forth beside such Revolving Lender’s name on Exhibit G hereto or, if such Revolving Lender’s name does not appear on Exhibit G hereto, in the most recent Assignment and Assumption Agreement or Lender Joinder Agreement executed by such Revolving Lender, and (b) as to all Revolving Lenders, the aggregate of all Revolving Lenders’ Revolving Loan Commitments to Borrower, which aggregate commitment is \$300,000,000 as of the Restatement Effective Date. For greater certainty, the Swingline Commitment of \$5,000,000 as of the Restatement Effective Date is a sub-limit of the Revolving Loan Commitment and not in addition thereto.

**“Revolving Loan Exposure”** means, as to any Revolving Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Revolving Lender’s participation in the Letter of Credit Accommodations and Swingline Loans at such time. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

**“Revolving Loan Facility”** means the revolving loan facility established pursuant to Article 2 (including any increase in such revolving loan facility established pursuant to Section 2.6).

**“Revolving Loan Outstandings”** means the sum of on any date (a) the aggregate outstanding principal amount of Revolving Loans and Swingline Loans (without duplication) after giving effect to any borrowings and prepayments or repayments of Revolving Loans and Swingline Loans (without duplication) occurring on such date; plus (b) the aggregate outstanding amount of all Letter of Credit Accommodations after giving effect to any changes in the aggregate amount of the Letter of Credit Accommodations as of such date. For purposes of this definition, the calculation of the outstanding principal amount of all Alternate Currency Loans shall be determined by taking the Dollar Equivalent thereof at the time of any such calculation.

**“Revolving Loans”** means Canadian Prime Rate Loans, CDOR Rate Loans, Eurocurrency Rate Loans, U.S. Base Rate Loans, and/or Term SOFR Loans, as the case may be, now or hereafter made by Revolving Lenders to or for the benefit of Borrower on a revolving basis (involving advances, repayments and re-advances) as set forth in Section 2.1 hereof.

**“Sanctioned Entity”** means (a) an agency of the government of, (b) an organization directly or indirectly controlled by, or (c) a person resident in, in each case, a country or territory that is the target of territory-wide or country-wide OFAC, Global Affairs Canada, United Nations Security Council, European Union, any member state of the European Union or United Kingdom (irrespective of its status vis-a-vis the European Union) sanctions.

**“Sanctioned Person”** means a person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/fac/sdn/index.html>, or as otherwise published from time to time (or any similar list maintained and published from time to

time by Global Affairs Canada, the United Nations Security Council, the European Union, any member state of the European Union or the United Kingdom (irrespective of its status vis-a-vis the European Union)).

“**Second Amendment Effective Date**” means March 15, 2021.

“**Secured Cash Management Agreement**” means any Cash Management Agreement that is entered into by and between any Credit Party and any Cash Management Bank.

“**Secured Hedge Agreement**” means any Hedge Agreement that is entered into by and between any Credit Party and any Hedge Bank.

“**Secured Parties**” means, collectively, Agent, Lenders, and their respective Affiliates (including Hedge Banks under any Secured Hedge Agreements and Cash Management Banks under Secured Cash Management Agreements) and any other person holding any Obligations (and, for greater certainty, if such person ceases to be an Agent or a Lender then for any transaction entered into under a Secured Hedge Agreement or Secured Cash Management Agreement with that Agent or Lender or any of its Affiliates prior to the date that person ceases to be an Agent or Lender, that Person or any of its Affiliates shall continue to be a Secured Party hereunder with respect to Borrower’s obligations relating to any such transaction).

“**Securities Accounts**” as defined in the UCC as in effect in the State of New York.

“**Senior Secured Net Leverage Ratio**” means, as of any date, the ratio of (i) Total Debt secured by a Lien on any assets of Borrower or any of its Subsidiaries as of such date (net of unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of the last day of such period less such amounts domiciled in the People’s Republic of China, and such net amount not to exceed in aggregate \$75,000,000 and excluding any Debt of the Playa Vista Borrower or any guarantee thereof, but only to the extent that such Debt or guarantee thereof is not secured by the assets of the Borrower or any of its Subsidiaries (other than the Playa Vista Borrower)) to (ii) EBITDA for the period of four (4) Fiscal Quarter period ending on or immediately prior to such date.

“**Settlement Date**” is defined in Section 11.13(a)(iii).

“**SOFR**” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“**SOFR Administrator**” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“**SOFR Business Day**” means, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, U.S. Dollars, any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities; provided, that for purposes of notice requirements in Sections 2.4(c), 3.1(g) and 3.1(h), in each case, such day is also a Business Day.



“**Solvent**” means, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets (including contingent assets) of such Person is greater than the total amount of liabilities (including contingent liabilities) of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent assets or liabilities at any time shall be computed as the amount that, in the light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured assets or liability, as the case may be.

“**Subsidiary**” means, with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person.

“**Swap Obligation**” means, with respect to any Credit Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“**Sweep Arrangement**” is defined in Section 2.1(c).

“**Swingline Commitment**” means the lesser of (a) \$5,000,000 and (b) the Revolving Loan Commitment. For greater certainty, the Swingline Commitment of \$5,000,000 as of the Restatement Effective Date is a sub-limit of the Revolving Loan Commitment and not in addition thereto.

“**Swingline Facility**” means the swingline facility established pursuant to Section 2.1(c).

“**Swingline Lender**” means Wells Fargo in its capacity as swingline lender hereunder or any successor thereto.

“**Swingline Loan**” means any swingline loan made by Swingline Lender to Borrower pursuant to Section 2.1(c), and all such swingline loans collectively as the context requires.

“**Swingline Participation Amount**” is defined in Section 2.1(c)(iv).

“**Synthetic Lease**” means any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an Operating Lease in accordance with GAAP.

“**TARGET Day**” means any day on which TARGET2 is open for the settlement of payments in Euros.

“**TARGET2**” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, fines, additions to tax or penalties applicable thereto.

“**Term Lender**” means any Lender with an Incremental Term Loan Commitment or holding Incremental Term Loans.

“**Term SOFR**” means,

(a) for any calculation with respect to a Term SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the “**Periodic Term SOFR Determination Day**”) that is two (2) SOFR Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding SOFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding SOFR Business Day is not more than three (3) SOFR Business Days prior to such Periodic Term SOFR Determination Day, and

(b) for any calculation with respect to a U.S. Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the “**Base Rate Term SOFR Determination Day**”) that is two (2) SOFR Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York time) on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding SOFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding SOFR Business Day is not more than three (3) SOFR Business Days prior to such Base Rate Term SOFR Determination Day.

“**Term SOFR Adjustment**” means, for any calculation with respect to a U.S. Base Rate Loan or a Term SOFR Loan, a percentage per annum equal to 0.10%.

“**Term SOFR Administrator**” means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Agent in its reasonable discretion).

“**Term SOFR Loan**” means any Loan that bears interest at a rate based on Adjusted Term SOFR other than pursuant to clause (c) of the definition of “U.S. Base Rate”.

“**Term SOFR Reference Rate**” means the forward-looking term rate based on SOFR.

“**Total Debt**” means, at any time with respect to Borrower and its consolidated Subsidiaries in accordance with GAAP and to the extent listed on the consolidated balance sheet (without duplication), the sum of all (i) Debt of the type specified in clauses (b), (c), (d), (e), (f) and (h) of the definition of “Debt” and (ii) non-contingent obligations of the type specified in clause (k) of such definition to the extent such obligations under clause (k) relate to Debt of the type specified in clauses (b), (c), (d), (e), (f) and (h) of such definition (but (1) excluding surety bonds not in connection with debt for borrowed money, performance bonds or other similar instruments, (2) excluding the effects of any discounting of Debt resulting from the application of purchase accounting in connection with the transactions contemplated by this Agreement or any acquisition, and (3) any Debt that is issued at a discount to its initial principal amount shall be calculated based on the entire stated principal amount thereof, without giving effect to any discounts or upfront payments, excluding obligations in respect of letters of credit, bankers acceptances, bank guarantees, and guarantees on first demand, in each case, except to the extent of unreimbursed amounts thereunder). For the avoidance of doubt, it is understood that obligations under Hedge Agreements and Cash Management Agreements do not constitute Total Debt.

“**Total Leverage Ratio**” means, as of any date of determination, the ratio of (a) Total Debt on such date to (b) EBITDA for the period of four (4) consecutive Fiscal Quarters ending on or immediately prior to such date.

“**Total Net Leverage Ratio**” means, as of any date of determination, the ratio of (a) Total Debt on such date (net of unrestricted cash and Cash Equivalents of Borrower and its consolidated Subsidiaries on the consolidated balance sheet of Borrower and its Subsidiaries as of the last day of such period less such amounts domiciled in the People’s Republic of China, and such net amount not to exceed in aggregate \$75,000,000) to (b) EBITDA for the period of four (4) consecutive Fiscal Quarters ending on or immediately prior to such date.

“**Trade-mark**” means any Trade-mark as such term is defined in the General Security Agreement.

“**TTM Revenue**” means, as of any date of determination, with respect to Borrower and its consolidated Subsidiaries the amount which is set forth under the heading “Revenues” on the consolidated statement of operations of Borrower and its Subsidiaries for the most recent four (4) consecutive Fiscal Quarter period ending on or immediately prior to such date as determined in accordance with GAAP.

“**Type**” means (i) for any US Revolving Loan, the type of such US Revolving Loan determined with regard to the interest option available thereto, i.e., whether a U.S. Base Rate Loan or a Term SOFR Loan, (ii) for a Eurocurrency Rate Loan, the Currency of such Eurocurrency Rate Loan, and (iii) in the case of any Canadian Revolving Loan, the type of such Canadian Revolving Loan determined with regard to the interest option available thereto, i.e., whether a Canadian Prime Rate Loan or a CDOR Rate Loan.

“**UCC**” means the Uniform Commercial Code as in effect in the State of New York (or any similar or equivalent legislation as in effect in any applicable jurisdiction).

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Unadjusted Benchmark Replacement**” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**United States**” means the United States of America.

“**USERP**” means the unregistered supplemental executive retirement plan dated July 12, 2000, as amended and restated as of January 1, 2006, made by Borrower in favor of its former Co-Chief Executive Officer and current Chairman of the Board, Bradley J. Wechsler, and its current Chief Executive Officer, Richard L. Gelfond.

“**U.S. Base Rate**” means, at any time, the highest of (a) the U.S. Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) the Adjusted Term SOFR for an Interest Period of one month plus the difference between the Applicable Margin for U.S. Base Rate Loans and Term SOFR Loans; each change in the U.S. Base Rate shall take effect simultaneously with the corresponding change or changes in the U.S. Prime Rate, the Federal Funds Rate or the Adjusted Term SOFR (provided that clause (c) shall not be applicable during any period in which the Adjusted Term SOFR is unavailable or unascertainable).

“**U.S. Base Rate Loans**” means any Loans (including Swingline Loans) or portions thereof denominated in U.S. Dollars and on which interest is payable based on the U.S. Base Rate in accordance with the terms hereof.

“**U.S. First Rate**” is defined in Section 3.1(c).

“**U.S. Pension Plan**” means a pension plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA which any Credit Party sponsors, maintains, or to which any Credit Party or any ERISA Affiliate makes, is making, or is obligated to make contributions, other than a Multiemployer Plan.

“**U.S. Prime Rate**” means, at any time, the rate of interest *per annum* publicly announced from time to time by Agent as its prime rate. Each change in the U.S. Prime Rate shall be effective as of the opening of business on the day such change in such prime rate occurs. The parties hereto acknowledge that the rate announced publicly by Agent as its prime rate is an index or base rate and shall not necessarily be its lowest or best rate charged to its customers or other banks.

“**US Revolving Loans**” means Revolving Loans denominated in U.S. Dollars.

“**Voluntary Prepayment Amount**” means, at any time, the amount equal to all voluntary prepayments by Borrower of the Loans to the extent accompanied by a corresponding permanent reduction in the Revolving Loan Commitment, if applicable, less the aggregate principal amount of all Incremental Loans, Incremental Loan Commitments and Incremental Equivalent Debt incurred under the Voluntary Prepayment Amount prior to such time, as applicable.

“**Weighted Average Life to Maturity**” means, when applied to any indebtedness at any date, the number of years (and/or portion thereof) obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number

of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such indebtedness, in each case of clauses (a) and (b), without giving effect to the application of any prior prepayment to such installment, sinking fund, serial maturity or other required payment of principal.

“**Wells Fargo**” means Wells Fargo Bank, National Association, a national banking association, and its successors.

“**Withholding Agent**” means any Credit Party and Agent.

“**Write-Down and Conversion Powers**” means (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

## **ARTICLE 2**

### **CREDIT FACILITIES**

#### **2.1 Revolving Loans**

- (a) Availability and Repayment. Subject to, and upon the terms and conditions contained herein, each Revolving Lender severally (and not jointly) agrees to make its Pro Rata Share of Revolving Loans by way of Canadian Prime Rate Loans, CDOR Rate Loans, Eurocurrency Rate Loans, Term SOFR Loans and U.S. Base Rate Loans to Borrower from time to time from the Restatement Effective Date through, but not including, the Maturity Date in amounts requested by Borrower in accordance with Section 3.1(h); provided, that (i) after the Restatement Effective Date, the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender shall not at any time exceed such Lender’s Revolving Loan Commitment and (iii) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans then outstanding shall not exceed the Alternate Currency Revolving Loan Sublimit. Subject to the terms and conditions hereof, Borrower at any time may borrow, repay and reborrow Revolving Loans hereunder until the Maturity Date. On the Maturity Date, the outstanding balance of the Revolving Loans (including principal, accrued and unpaid interest and other amounts due and payable with respect thereto) shall be due and be payable and the Revolving Loan Commitment shall terminate.
- (b) Maximum Amounts. In the event that (i) the Revolving Loan Outstandings exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender exceeds such Lender’s Revolving Loan Commitment, (iii) the aggregate outstanding amount of the Letter of Credit Accommodations exceeds the Letter of Credit Accommodations

Sublimit, (iv) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans then outstanding exceeds the Alternate Currency Revolving Loan Sublimit or (v) the aggregate principal amount of all Swingline Loans then outstanding exceeds the Swingline Commitment, such event shall not limit, waive or otherwise affect any rights of Agent or Lenders in that circumstance or on any future occasions and Borrower shall, upon demand by Agent, which may be made at any time or from time to time, immediately repay to Agent the entire amount of any such excess(es) for which payment is demanded.

(c) Swingline Loans.

- (i) Subject to, and upon the terms and conditions contained herein, Swingline Lender may, in its sole discretion, make Swingline Loans in U.S. Dollars by way of U.S. Base Rate Loans to Borrower from time to time from the Restatement Effective Date to, but not including, the Maturity Date; provided, that (i) after giving effect to any amount requested, the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment and (ii) the aggregate principal amount of all outstanding Swingline Loans (after giving effect to any amount requested) shall not exceed the Swingline Commitment. Notwithstanding any provision herein to the contrary, Swingline Lender and Borrower may agree that the Swingline Facility may be used to automatically draw and repay Swingline Loans (subject to the limitations set forth herein) pursuant to cash management arrangements between Borrower and Swingline Lender (the “**Sweep Arrangement**”). Principal and interest on Swingline Loans deemed requested pursuant to the Sweep Arrangement shall be paid pursuant to the terms and conditions agreed to between Borrower and Swingline Lender (without any deduction, setoff or counterclaim whatsoever). The borrowing and disbursement provisions set forth in Section 3.1(h) and any other provision hereof with respect to the timing or amount of payments on the Swingline Loans (other than the requirement that the Swingline Loans be repaid in full on the Maturity Date set forth herein) shall not be applicable to Swingline Loans made and prepaid pursuant to the Sweep Arrangement. Unless sooner paid pursuant to the provisions hereof or the provisions of the Sweep Arrangement, on the Maturity Date, the outstanding balance of the Swingline Loans (including principal, accrued and unpaid interest and other amounts due and payable with respect thereto) shall be due and be payable and the Swingline Commitment shall terminate. Swingline Loans may be made automatically through the “Credit Sweep Option” under, and as defined in, the Swingline Lender’s Stagecoach Sweep® Service subject to the additional terms and conditions set forth in Swingline Lender’s standard documentation for such service as agreed to by Borrower.
- (ii) Swingline Lender, at any time and from time to time in its sole and absolute discretion may, on behalf of Borrower (which hereby irrevocably directs Swingline Lender to act on its behalf), by written notice given no later than 11:00 a.m. (New York time) on any Business Day request each Revolving Lender to make, and each Revolving Lender hereby agrees to make, a Revolving Loan as a U.S. Base Rate Loan in an amount equal to such Revolving Lender’s Pro Rata

Share of the Revolving Loan Commitment of the aggregate amount of the Swingline Loans outstanding on the date of such notice, to repay Swingline Lender. Each Revolving Lender shall make the amount of such Revolving Loan available to Agent in immediately available funds at Agent's Office not later than 1:00 p.m. (New York time) on the day specified in such notice. The proceeds of such Revolving Loans shall be immediately made available by Agent to Swingline Lender for application by Swingline Lender to the repayment of the Swingline Loans. No Revolving Lender's obligation to fund its respective Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan shall be affected by any other Revolving Lender's failure to fund its Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan, nor shall any Revolving Lender's Pro Rata Share of the Revolving Loan Commitment be increased as a result of any such failure of any other Revolving Lender to fund its Pro Rata Share of the Revolving Loan Commitment of a Swingline Loan.

- (iii) Borrower shall pay to Swingline Lender on demand, and in any event on the Maturity Date, in immediately available funds the amount of such Swingline Loans to the extent amounts received from Revolving Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. In addition, Borrower irrevocably authorizes Agent to charge any account (other than fiduciary accounts as to which a Credit Party is acting as fiduciary for another Person who is not a Credit Party and payroll or trust fund accounts) maintained by Borrower with Swingline Lender (up to the amount available therein) in order to immediately pay Swingline Lender the amount of such Swingline Loans to the extent amounts received from the Revolving Lenders are not sufficient to repay in full the outstanding Swingline Loans requested or required to be refunded. If any portion of any such amount paid to Swingline Lender shall be recovered by or on behalf of Borrower from Swingline Lender in an Insolvency Proceeding or otherwise, the loss of the amount so recovered shall be ratably shared among all Revolving Lenders in accordance with their respective Pro Rata Shares of the Revolving Loan Commitment.
- (iv) If for any reason any Swingline Loan cannot be refinanced with a Revolving Loan pursuant to Section 2.1(c)(ii), each Revolving Lender shall, on the date such Revolving Loan was to have been made pursuant to the notice referred to in Section 2.1(c)(ii), purchase for cash an undivided participating interest in the then outstanding Swingline Loans by paying to Swingline Lender an amount (the "**Swingline Participation Amount**") equal to such Revolving Lender's Pro Rata Share of the Revolving Loan Commitment of the aggregate principal amount of Swingline Loans then outstanding. Each Revolving Lender will immediately transfer to Swingline Lender, in immediately available funds, the amount of its Swingline Participation Amount. Whenever, at any time after Swingline Lender has received from any Revolving Lender such Revolving Lender's Swingline Participation Amount, Swingline Lender receives any payment on account of the Swingline Loans, Swingline Lender will distribute to such Revolving Lender its Swingline Participation Amount (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Revolving Lender's

participating interest was outstanding and funded and, in the case of principal and interest payments, to reflect such Revolving Lender's Pro Rata Share of such payment if such payment is not sufficient to pay the principal of and interest on all Swingline Loans then due); provided that in the event that such payment received by Swingline Lender is required to be returned, such Revolving Lender will return to Swingline Lender any portion thereof previously distributed to it by Swingline Lender.

- (v) Each Revolving Lender's obligation to make the Revolving Loans referred to in Section 2.1(c)(ii) and to purchase participating interests pursuant to Section 2.1(c)(iv) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Revolving Lender or Borrower may have against Swingline Lender, Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default or the failure to satisfy any of the other conditions specified in Article 4, (C) any adverse change in the condition (financial or otherwise) of any Credit Party, (D) any breach of this Agreement or any other Financing Agreement by any Credit Party or any other Lender or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.
- (vi) If any Revolving Lender fails to make available to Agent, for the account of Swingline Lender, any amount required to be paid by such Revolving Lender pursuant to the foregoing provisions of this Section 2.1(c) by the time specified in Section 2.1(c)(ii) or 2.1(c)(iv), as applicable, Swingline Lender shall be entitled to recover from such Revolving Lender (acting through Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to Swingline Lender at a rate *per annum* equal to the applicable Federal Funds Rate, plus any administrative, processing or similar fees customarily charged by Swingline Lender in connection with the foregoing. If such Revolving Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Revolving Lender's Revolving Loan or Swingline Participation Amount, as the case may be. A certificate of Swingline Lender submitted to any Revolving Lender (through Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

## **2.2 Letter of Credit Accommodations**

- (a) Letter of Credit Accommodations. Subject to, and upon the terms and conditions contained herein, at the irrevocable request of Borrower pursuant to a Notice of Borrowing given by Borrower to Agent no later than 12:00 noon (New York time) at least three (3) Business Days prior to the requested issuance date, Issuing Lender agrees to provide or arrange for Letter of Credit Accommodations for the account of Borrower or any Credit Party in U.S. Dollars containing terms and conditions reasonably acceptable to Issuing Lender. Any payments made by Issuing Lender in connection with the Letter of Credit Accommodations shall constitute additional Revolving Loans to Borrower



pursuant to this Article 2. Each Lender agrees to purchase an irrevocable and unconditional participation in each Letter of Credit Accommodation issued hereunder based on its Pro Rata Share. Each Letter of Credit Accommodation shall expire on a date no more than twelve (12) months after the date of issuance or last renewal of such Letter of Credit Accommodations (subject to (i) such longer periods agreed to by Issuing Lender and (ii) automatic renewal for additional one (1) year periods pursuant to the terms of the letter of credit application or other documentation acceptable to Issuing Lender), which date shall be no later than the fifth (5<sup>th</sup>) Business Day prior to the Maturity Date unless Issuing Lender is satisfied that Borrower will cash collateralize the Letter of Credit Accommodations that extend beyond the fifth (5<sup>th</sup>) Business Day prior to the Maturity Date on terms acceptable to Issuing Lender.

- (b) Fees and Expenses. In addition to any charges, fees or expenses charged by Issuing Lender in connection with the Letter of Credit Accommodations, Borrower shall pay to Agent a letter of credit fee at a rate equal to the Applicable Margin *per annum* for Term SOFR Loans on the daily outstanding balance of the Letter of Credit Accommodations for the immediately preceding Fiscal Quarter (or part thereof), payable in arrears as of the last Business Day of each Fiscal Quarter. Such letter of credit fee shall be calculated on the basis of a 360 day year and actual days elapsed and the obligation of Borrower to pay such fee shall survive the maturity or termination of this Agreement. This letter of credit fee shall not be payable to a Lender during the period it is a Defaulting Lender.
- (c) Maximum Amount. The amount of all outstanding Letter of Credit Accommodations and all other commitments and obligations made or incurred by Issuing Lender in connection therewith (including charges, fees and expenses with respect thereto) shall not at any time exceed \$25,000,000 (the “**Letter of Credit Accommodations Sublimit**”). At any time an Event of Default has occurred and is continuing, upon Agent’s request, Borrower will furnish Agent with cash collateral to secure the reimbursement obligations of the Issuing Lender in connection with any Letter of Credit Accommodations.
- (d) [Reserved].
- (e) Rights of Issuing Lender. Nothing contained herein shall be deemed or construed to grant Borrower any right or authority to pledge the credit of Agent, Issuing Lender or a Lender in any manner. Except as a result of Issuing Lender’s own gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Issuing Lender from a court of competent jurisdiction, Borrower shall be bound by any interpretation made by Issuing Lender under or in connection with any Letter of Credit Accommodation or any documents, drafts or acceptances thereunder, notwithstanding that such interpretation may be inconsistent with any instructions of Borrower. At all times other than when an Event of Default has occurred and is continuing, Borrower shall be permitted, with the prior written consent of Issuing Lender to: (i) grant any extensions of the maturity of, time of payment for, or time of presentation of, any drafts, acceptances, or documents, and (ii) agree to any amendments, renewals, extensions, modifications, changes or cancellations of any of the terms or conditions of any of the applications, Letter of Credit Accommodations, or documents, drafts or acceptances thereunder or any letters of credit included in the Collateral.

## 2.3 Maturity Date

- (a) This Agreement shall continue in full force and effect for a term ending on the Maturity Date. Upon the Maturity Date, Borrower shall pay to Agent, in full, all outstanding and unpaid non-contingent Obligations (except under or in connection with any Secured Hedge Agreement) and shall furnish cash collateral (or backstop letters of credit) to Agent in such amounts as Agent determines are reasonably necessary to secure Agent, Lenders and Secured Parties from loss, cost, damage or expense, including legal fees and expenses, with respect to issued and outstanding Letter of Credit Accommodations, outstanding Secured Hedge Agreements and cheques or other payments provisionally credited to the Obligations and/or as to which Agent and Lenders have not yet received payment. Such payments in respect of the Obligations and cash collateral shall be remitted by wire transfer in U.S. Dollars to such bank account of Agent, as Agent may, in its discretion, designate in writing to Borrower for such purpose. Interest shall be due until and including the next Business Day, if the amounts so paid by Borrower to the bank account designated by Agent are received in such bank account later than 12:00 noon (New York time).
- (b) No termination of this Agreement shall relieve or discharge any Credit Party of its respective duties, obligations and covenants under the Financing Agreements until all Obligations (other than contingent indemnification obligations not then due) have been paid in full in cash, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms and conditions reasonably acceptable to the Agent) and all Commitments are terminated, and Agent's continuing security interest in the Collateral and the rights and remedies of Agent and Lenders, under the Financing Agreements and Applicable Law, shall remain in effect until all such Obligations (other than contingent indemnification obligations not then due) have been paid in full in cash, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms and conditions reasonably acceptable to the Agent) and such Commitments terminated.

## 2.4 Optional Prepayments and Cancellation of Unused Revolving Loan Commitments

(a) The Borrower shall have the right at any time and from time to time, upon at least five (5) Business Days prior irrevocable written notice to the Agent, to permanently reduce, without premium or penalty, (i) the entire Revolving Loan Commitment at any time or (ii) portions of the Revolving Loan Commitment, from time to time, in an aggregate principal amount not less than \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof. Any reduction of the Revolving Loan Commitment shall be applied to the Revolving Loan Commitment of each Revolving Lender according to its Pro Rata Share. All commitment fees under Section 3.7 accrued until the effective date of any termination of the Revolving Loan Commitment shall be paid on the effective date of such termination.

(b) Each permanent reduction permitted pursuant to clause (a) of this Section shall be accompanied by a payment of principal sufficient to reduce the aggregate outstanding Revolving Loans, Swingline Loans and Letter of Credit Accommodations, as applicable, after such reduction to the Revolving Loan Commitment as so reduced, and if the aggregate amount of all outstanding Letter of Credit Accommodations exceeds the Revolving Loan Commitment as so reduced, the Borrower shall be

required to deposit cash collateral in a cash collateral account opened by the Agent in an amount equal to such excess. Such cash collateral shall be applied in accordance with Section 5.3(b). Any reduction of the Revolving Loan Commitment to zero shall be accompanied by payment of all outstanding Revolving Loans and Swingline Loans (and furnishing of cash collateral satisfactory to the Agent for all Letter of Credit Accommodations or other arrangements satisfactory to the Issuing Lender) and shall result in the termination of the Revolving Loan Commitment and the Swingline Commitment and the Revolving Loan Facility. If the reduction of the Revolving Loan Commitment requires the repayment of any Eurocurrency Rate Loan, CDOR Rate Loan or Term SOFR Loan, such repayment shall be accompanied by any amount required to be paid pursuant to Section 3.3 hereof.

(c) The Borrower may at any time and from time to time prepay Revolving Loans and Swingline Loans, in whole or in part, without premium or penalty, with irrevocable prior written notice to the Agent pursuant to a Notice of Prepayment given not later than 12:00 noon (New York time) (i) on the same Business Day as prepayment of each U.S. Base Rate Loan, each Canadian Prime Rate Loan and each Swingline Loan and (ii) (A) in the case of a Term SOFR Loan, at least three (3) SOFR Business Days before prepayment of such Term SOFR Loan, (B) in the case of a CDOR Rate Loan, at least five (5) Business Days before prepayment of such CDOR Rate Loan and (C) in the case of a Eurocurrency Rate Loan at least four (4) Eurocurrency Banking Days before prepayment of such Eurocurrency Rate Loan, in each case, specifying the date, Currency and amount of prepayment and whether the prepayment is of Eurocurrency Rate Loans, CDOR Rate Loans, Term SOFR Loans, U.S. Base Rate Loans, Canadian Prime Rate Loans, Swingline Loans or a combination thereof, and, if of a combination thereof, the amount allocable to each. Upon receipt of such notice, the Agent shall promptly notify each Revolving Lender. If any such notice is given, the amount specified in such notice shall be due and payable on the date set forth in such notice. A Notice of Prepayment received after 12:00 noon (New York time) shall be deemed received on the next Business Day, SOFR Business Day or Eurocurrency Banking Day, as applicable. Each such repayment shall be accompanied by any amount required to be paid pursuant to Section 3.3 hereof.

(d) Notwithstanding the foregoing, any Notice of Prepayment delivered in connection with any refinancing of all of the credit facility established by this Agreement with the proceeds of such refinancing or of any incurrence of Debt or the occurrence of some other identifiable event or condition, may be, if expressly so stated to be, contingent upon the consummation of such refinancing or incurrence or occurrence of such other identifiable event or condition and may be revoked by the Borrower in the event such contingency is not met (provided that the failure of such contingency shall not relieve the Borrower from its obligations in respect thereof under Section 3.3).

## **2.5 Hedge Transactions**

Agent or a Lender (or their respective Affiliates) may offer to make available Hedge Agreements to Borrower from time to time (it being understood that nothing contained herein shall be construed to commit any person to enter into any Hedge Agreement) upon terms mutually acceptable to Agent or such Lender or such Affiliate and Borrower.

## **2.6 Incremental Term Loans and Revolving Loans**

(a) At any time, Borrower may by written notice to Agent elect to request the establishment of:

- (i) one or more new or incremental term loan commitments (any such new or incremental term loan commitment, an “**Incremental Term Loan Commitment**”) to make one or more new or additional term loans, including a borrowing of a new or additional term loan under this Agreement (any such new or additional term loan, an “**Incremental Term Loan**”); or
- (ii) one or more increases in the Revolving Loan Commitments (any such increase, an “**Incremental Revolving Loan Commitment**” and, together with the Incremental Term Loan Commitments, the “**Incremental Loan Commitments**”) to make additional revolving loans under this Agreement (any such increase, an “**Incremental Revolving Loan Increase**” and, together with the Incremental Term Loans, the “**Incremental Loans**”);

provided that (1) the total aggregate principal amount (as of the date of incurrence thereof) of such Incremental Revolving Loan Commitments and Incremental Revolving Loan Increases shall not exceed the Fixed Incremental Amount, (2) the total aggregate principal amount (as of the date of incurrence thereof) of such Incremental Loans shall not exceed the Maximum Incremental Amount, (3) the amount for each Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall not be less than a minimum principal amount of \$10,000,000 or, if less, the remaining amount permitted pursuant to the foregoing clause (2) and (4), the amount for each Incremental Revolving Loan Commitment shall not be less than a minimum principal amount of \$25,000,000.

- (b) Each such notice shall specify the date (each, an “**Increased Amount Date**”) on which Borrower proposes that any Incremental Loan Commitment shall be effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to Agent (or such earlier date as may be approved by Agent).
- (c) Borrower may invite any Lender, any Affiliate of any Lender and/or any Approved Fund, and/or any other Person reasonably satisfactory to Agent, to provide an Incremental Loan Commitment (any such Person, an “**Incremental Lender**”). Any proposed Incremental Lender offered or approached to provide all or a portion of any Incremental Loan Commitment may elect or decline, in its sole discretion, to provide such Incremental Loan Commitment or any portion thereof.
- (d) Any Incremental Loan Commitment shall become effective as of such Increased Amount Date; provided that each of the following conditions has been satisfied or waived as of such Increased Amount Date:
  - (i) no Default or Event of Default shall exist on such Increased Amount Date immediately prior to or after giving effect to (1) any Incremental Loan Commitment, and (2) the making of any Incremental Loans pursuant thereto (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to any investment in connection with the incurrence of such Incremental Loan Commitment and (y) such investment);

- (ii) Agent and Lenders shall have received from Borrower a Compliance Certificate demonstrating, in form and substance reasonably satisfactory to Agent, that Borrower is in compliance with (1) the provisos in Section 2.6(a), and (2) (A) at all times other than during the Designated Period, the Senior Secured Net Leverage Ratio pursuant to Section 9.1, and (B) during the Designated Period, the minimum Liquidity covenant pursuant to Section 9.2, in each case under this clause (2) to be based on the financial statements most recently delivered pursuant to Section 7.6(a), both before and after giving effect (on a Pro Forma Basis) to (x) any Incremental Loan Commitment, (y) the making of any Incremental Loans pursuant thereto (with any Incremental Loan Commitment being deemed to be fully funded) and (z) any Permitted Investment consummated in connection therewith, in each case, without duplication;
- (iii) [reserved];
- (iv) the proceeds of any Incremental Loans shall be used in accordance with Section 5.5;
- (v) each Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall constitute Obligations of Borrower and shall be secured and guaranteed with the other Obligations on a *pari passu* or junior basis;
- (vi) each Incremental Revolving Loan Commitment (and the Incremental Revolving Loan Increase made thereunder) shall constitute Obligations of Borrower and shall be secured and guaranteed with the other Revolving Loans and any applicable then outstanding Incremental Term Loans on a *pari passu* basis;
- (vii) in the case of each Incremental Term Loan (the terms of which shall be set forth in the relevant Lender Joinder Agreement):
  - (A) such Incremental Term Loan will not have a shorter Weighted Average Life to Maturity than the remaining Weighted Average Life to Maturity of any applicable then outstanding Incremental Term Loans or a maturity date earlier than the Maturity Date;
  - (B) the applicable margin and pricing grid, if applicable, for such Incremental Term Loan shall be determined by Agent, the applicable Incremental Lenders and Borrower on the applicable Increased Amount Date; provided that during the Designated Period, the effective yield applicable to such Incremental Term Loan shall not be greater than the effective yield then applicable to any applicable then outstanding Incremental Term Loans unless the Applicable Margin for the then outstanding Incremental Term Loans is increased such that the effective yield of such then outstanding Incremental Term Loans equals the effective yield of such Incremental Term Loan (with such effective yields being reasonably determined by the Agent in consultation with the Borrower in a manner consistent with generally accepted financial practices, taking into account: (a) interest rate

margins, (b) original issue discount (“OID”) and upfront or similar fees (which shall be deemed to constitute like amounts of OID) payable by the Borrower or any of its Subsidiaries or Affiliates to the lenders under, or holders of, any such Debt in the initial primary syndication thereof (with OID and upfront fees being equated to interest based on assumed four-year life to maturity (or, if less, the stated weighted average life to maturity at the time of its incurrence of the applicable Debt)), and (c) any interest rate floor, but excluding (i) any arrangement, commitment, structuring, agency or underwriting fees that are not paid to or shared with all relevant lenders generally in connection with the commitment or syndication of such Debt, (ii) any ticking, unused line or similar fees or (iii) any other fee that is not paid directly by the Borrower generally to all relevant lenders ratably in the primary syndication of such Debt; provided that (x) to the extent that any interest rate specified for such Debt that is subject to a floor (in each case, without giving effect to any such floor on the date on which the effective yield is being calculated) is less than such floor, the amount of such difference will be deemed added to the interest rate margin applicable to such Debt for purposes of calculating the effective yield and (y) to the extent that any interest rate specified for such Debt that is subject to a floor (in each case, without giving effect to any such floor on the date on which the effective yield is being calculated) is equal to or greater than such floor, the floor will be disregarded in calculating the effective yield); and

- (C) except as provided above, all other terms and conditions applicable to any Incremental Term Loan shall be substantially identical to those applicable to the applicable then outstanding Incremental Term Loans or not more restrictive than those applicable to such other Incremental Term Loans;
- (viii) in the case of each Incremental Revolving Loan Increase (the terms of which shall be set forth in the relevant Lender Joinder Agreement):
  - (A) such Incremental Revolving Loan Increase shall mature on the Maturity Date, shall bear interest and be entitled to fees at the rate applicable to the Revolving Loans and shall be subject to the same terms and conditions as the Revolving Loans; and
  - (B) the outstanding Revolving Loans, Swingline Loans and Letter of Credit Accommodations will be reallocated by Agent on the applicable Increased Amount Date among the Revolving Lenders (including the Incremental Lenders providing such Incremental Revolving Loan Increase) in accordance with their revised Pro Rata Share and the Revolving Lenders (including the Incremental Lenders providing such Incremental Revolving Loan Increase) agree to make all payments and adjustments necessary to effect such reallocation and Borrower shall pay any and all costs required pursuant to Section 3.3 in connection with such reallocation as if such reallocation were a repayment;

- (ix) any Incremental Lender making any Incremental Term Loan shall be entitled to the same voting rights as the existing Term Lenders under the any then existing Incremental Term Loan and (unless otherwise agreed by the applicable Incremental Lenders) each Incremental Term Loan shall receive proceeds of payments on the same basis as the existing Incremental Term Loans made hereunder;
  - (x) any Incremental Lender with an Incremental Revolving Loan Increase shall be entitled to the same voting rights as the existing Revolving Lenders under the Revolving Loan Facility and any Revolving Loan made in connection with each Incremental Revolving Loan Increase shall receive proceeds of payments on the same basis as the other Revolving Loans made hereunder;
  - (xi) such Incremental Loan Commitments shall be effected pursuant to one or more Lender Joinder Agreements executed and delivered by Borrower, Agent and the applicable Incremental Lenders (which Lender Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Financing Agreements as may be necessary or appropriate, in the opinion of Agent, to effect the provisions of this Section 2.6); and
  - (xii) Borrower shall deliver or cause to be delivered any customary legal opinions or other documents (including a resolution duly adopted by the board of directors (or equivalent governing body) of Borrower authorizing such Incremental Loan and/or Incremental Loan Commitment) as may be reasonably requested by Agent in connection with any such transaction.
- (e) The Incremental Term Loans shall be deemed to be Loans; provided that any such Incremental Term Loan that is not added to the outstanding principal balance of a pre-existing Incremental Term Loan shall be designated as a separate tranche of Loans for all purposes of this Agreement.
- (f) The Incremental Lenders shall be included in any determination of the Required Lenders and, unless otherwise agreed by the applicable Incremental Lenders that their respective Incremental Term Loan Commitment (and the Incremental Term Loans made thereunder) shall be secured and guaranteed with the other Obligations on a junior basis, the Incremental Lenders will not constitute a separate voting class for any purposes under this Agreement.
- (g) On any Increased Amount Date on which any Incremental Term Loan Commitment becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Term Loan Commitment shall make, or be obligated to make, an Incremental Term Loan to Borrower in an amount equal to its Incremental Term Loan Commitment and shall become a Term Lender hereunder with respect to such Incremental Term Loan Commitment and the Incremental Term Loan made pursuant thereto.

- (h) On any Increased Amount Date on which any Incremental Revolving Loan Increase becomes effective, subject to the foregoing terms and conditions, each Incremental Lender with an Incremental Revolving Loan Commitment shall become a Revolving Lender hereunder with respect to such Incremental Revolving Loan Commitment.
- (i) The incurrence of Incremental Equivalent Debt pursuant to Section 8.3(y) shall reduce, on a dollar-for-dollar basis, the aggregate amount of Incremental Loans permitted to be incurred under Section 2.6(a).

### **ARTICLE 3**

#### **INTEREST, REQUESTS FOR REVOLVING LOANS, INCREASED COSTS AND FEES**

##### **3.1 Interest**

- (a) Interest Rate. Borrower shall pay to Agent interest on the outstanding principal amount of the Revolving Loans and Swingline Loans at the applicable Interest Rate.
- (b) Payment and Calculation. Interest shall be payable by Borrower to Agent (i) in the case of Canadian Prime Rate Loans and U.S. Base Rate Loans, quarterly in arrears on the last Business Day of each Fiscal Quarter and (ii) in the case of Term SOFR Loans, CDOR Rate Loans and Eurocurrency Rate Loans, on the last day of each Interest Period (and in the case of an Interest Period of greater than three (3) months, on the last day of each three (3) month period during such Interest Period and on the last day of such Interest Period). All computations of interest for U.S. Base Rate Loans (when the U.S. Base Rate is determined by reference to the U.S. Prime Rate), Canadian Prime Rate Loans and CDOR Rate Loans shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest provided hereunder shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365/366-day year). The interest rate applicable to Canadian Prime Rate Loans and U.S. Base Rate Loans shall increase or decrease by an amount equal to each increase or decrease in the Canadian Prime Rate or U.S. Base Rate after any change in such rate is announced. All interest accruing hereunder on and after an Event of Default that is continuing or maturity or termination hereof shall be payable on demand. In no event shall charges constituting interest payable by Borrower to Agent or Lenders exceed the maximum amount or the rate permitted under any Applicable Law, and if any part or provision of this Agreement is in contravention of any such Applicable Law, such part or provision shall be deemed amended to conform thereto.
- (c) Interest Act (Canada). For purposes of disclosure under the *Interest Act* (Canada), where interest is calculated pursuant hereto at a rate based upon a 360 day year (the “**U.S. First Rate**”), it is hereby agreed that the rate or percentage of interest on a yearly basis is equivalent to such U.S. First Rate multiplied by the actual number of days in the year divided by 360. Each Credit Party confirms that it fully understands and is able to calculate the rate of interest based on the methodology for calculating *per annum* rates provided for in this Agreement. Agent agrees that if requested in writing by Borrower it shall calculate the nominal and effective *per annum* rate of interest on any Loan



outstanding at any time and provide such information to Borrower promptly following such request; provided that any error in any such calculation, or any failure to provide such information on request, shall not relieve Borrower or any other Credit Party of any of its obligations under this Agreement or any other Financing Agreement, nor result in any liability of Agent or any Lender. Each Credit Party hereby irrevocably agrees not to plead or assert, whether by way of defense or otherwise, in any proceeding relating to the Financing Agreements, that the interest payable under the Financing Agreements and the calculation thereof has not been adequately disclosed to Credit Parties, whether pursuant to Section 4 of the *Interest Act* (Canada) or any other Applicable Law or legal principle.

- (d) Criminal Code (Canada). Notwithstanding the provisions of this Article 3 or any other provision of this Agreement, in no event shall the aggregate “**interest**” (as that term is defined in Section 347 of the *Criminal Code* (Canada)) exceed the effective annual rate of interest on the “**credit advanced**” (as defined therein) lawfully permitted under Section 347 of the *Criminal Code* (Canada).
- (e) Agent Certificate. A certificate of an authorized signing officer of Agent as to each amount and/or each rate of interest payable hereunder from time to time shall be conclusive evidence of such amount and of such rate, absent manifest error.
- (f) No deemed reinvestment principle/effective yield method. For greater certainty, whenever any amount is payable under any Financing Agreement by Borrower as interest or as a fee which requires the calculation of an amount using a percentage *per annum*, each party to this Agreement acknowledges and agrees that such amount shall be calculated as of the date payment is due without application of the “**deemed reinvestment principle**” or the “**effective yield method**”. As an example, when interest is calculated and payable monthly, the rate of interest payable per month is 1/12 of the stated rate of interest *per annum*.
- (g) Conversion/Continuation of CDOR Rate Loans, Term SOFR Loans and Eurocurrency Rate Loans. Each CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan shall automatically, at Agent’s option, either (i) convert to, in the case of a CDOR Rate Loan, Canadian Prime Rate Loans or in the case of a Term SOFR Loan or Eurocurrency Rate Loan, U.S. Base Rate Loans, respectively, upon the last day of the applicable Interest Period or (ii) be rolled over for a further one (1) month Interest Period, unless Agent has received and approved a Notice of Conversion/Continuation to continue such CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan for an Interest Period chosen by Borrower at least four (4) Eurocurrency Banking Days prior to such last day with respect to Eurocurrency Rate Loans, five (5) Business Days prior to such last day with respect to CDOR Rate Loans and three (3) SOFR Business Days prior to such last day with respect to Term SOFR Loans, each in accordance with the terms hereof. Each CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan shall, at Agent’s option, upon notice by Agent to Borrower, be subsequently converted to Canadian Prime Rate Loans (in the case of a Loan denominated in Canadian Dollars) and U.S. Base Rate Loans (in all other cases), respectively, upon the occurrence of any Event of Default which is continuing and otherwise upon the Maturity Date, which in the case of a Eurocurrency Rate Loan denominated in an Alternate Currency shall be deemed to be a selection by the Borrower

that such Eurocurrency Rate Loan shall automatically be converted to a U.S. Base Rate Loan denominated in U.S. Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternate Currency) at the end of such Interest Period.

(h) Requests for Revolving Loans and Swingline Loans.

- (i) Borrower may from time to time request in writing Revolving Loans and Swingline Loans pursuant to a Notice of Borrowing or may request in writing that Canadian Prime Rate Loans and U.S. Base Rate Loans (other than Swingline Loans) be converted to CDOR Rate Loans or Term SOFR Loans in the same Currency pursuant to a Notice of Conversion/Continuation or that any existing Eurocurrency Rate Loan, CDOR Rate Loan or Term SOFR Loan continue for an additional Interest Period pursuant to a Notice of Conversion/Continuation. Notices of Borrowing and Notices of Conversion/Continuation received after 12:00 noon (New York time) on any day shall be deemed to have been made as of the opening of business on the immediately following Business Day, SOFR Business Day or Eurocurrency Banking Day, as the case may be. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a CDOR Rate Loan, a Eurocurrency Rate Loan or a Term SOFR Loan.
- (ii) Each Notice of Borrowing or Notice of Conversion/Continuation, as applicable, from Borrower shall specify:
- (A) whether such Loan is to be a Revolving Loan or Swingline Loan and the amount of the Revolving Loan or Swingline Loan, as applicable;
  - (B) the date (which day shall be a Business Day) of borrowing, conversion or continuation, as the case may be;
  - (C) the Alternate Currency of the Revolving Loan (if applicable) provided that the consent of all Revolving Lenders shall be required for a Revolving Loan in an Alternate Currency other than Canadian Dollars and Euros;
  - (D) the Type of Revolving Loan;
  - (E) the amount of the Canadian Prime Rate Loan or U.S. Base Rate Loan to be converted to CDOR Rate Loans or Term SOFR Loans (if applicable);
  - (F) the amount of the CDOR Rate Loan, Eurocurrency Rate Loan or Term SOFR Loan to be continued (if applicable); and
  - (G) the Interest Period to be applicable to such Revolving Loan (if applicable).

If the Borrower requests a borrowing of, conversion to, or continuation of, a CDOR Rate Loan, a Eurocurrency Rate Loan or a Term SOFR Loan, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. If the Borrower fails to specify the Currency of a Loan in a Notice of Borrowing, then the

applicable Loans shall be made in U.S. Dollars. If the Borrower fails to specify a type of Loan denominated in U.S. Dollars or Canadian Dollars in a Notice of Borrowing, then the applicable Loans shall be made as a Term SOFR Loan in the case of a Loan denominated in U.S. Dollars and a CDOR Rate Loan in the case of Loan denominated in Canadian Dollars.

- (iii) Subject to the terms and conditions contained herein, after receipt by Agent of such a Notice of Borrowing or Notice of Conversion/Continuation from Borrower, such Revolving Loans shall be made, converted or continued, as applicable; provided, that:
- (A) a Notice of Borrowing or Notice of Conversion/Continuation with respect to a borrowing or continuation of, or conversion to, a Term SOFR Loan shall be submitted by Borrower to Agent at least three (3) SOFR Business Days prior to the date of such borrowing, conversion or continuation;
  - (B) a Notice of Borrowing or Notice of Conversion/Continuation with respect to a borrowing or continuation of, or conversion to, CDOR Rate Loans shall be submitted by Borrower to Agent at least five (5) Business Days prior to the date of such borrowing, conversion or continuation;
  - (C) a Notice of Borrowing or Notice of Conversion/Continuation with respect to a borrowing or continuation of, or conversion to, Eurocurrency Rate Loans shall be submitted by Borrower to Agent at least four (4) Eurocurrency Banking Days prior to the date of such borrowing, conversion or continuation;
  - (D) a Notice of Borrowing with respect to Canadian Prime Rate Loans and U.S. Base Rate Loans shall be submitted by Borrower to Agent no later than 12:00 noon (New York time) on the Business Day upon which Borrower requires such Canadian Prime Rate Loan or U.S. Base Rate Loan to be advanced to Borrower and if such request is provided after 12:00 noon (New York time) on a Business Day then such Canadian Prime Rate Loan or U.S. Base Rate Loan shall be advanced on the next following Business Day;
  - (E) any request by Borrower to Agent pursuant to a Notice of Borrowing or Notice of Conversion/Continuation shall be irrevocable;
  - (F) no more than ten (10) Interest Periods (for all outstanding Loans) may be in effect at any one time;
  - (G) the aggregate amount of Term SOFR Loans shall be in an amount not less than \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof;
  - (H) the aggregate amount of CDOR Rate Loans shall be in an amount not less than CDN\$5,000,000 or an integral multiple of CDN\$1,000,000 in excess thereof;

- (I) the aggregate amount of Eurocurrency Rate Loans denominated in Euros shall be in an amount not less than EUR5,000,000 or an integral multiple of EUR1,000,000 in excess thereof
  - (J) the aggregate amount of Eurocurrency Rate Loans in an Alternate Currency (other than Euros) shall be in an amount agreed between Agent, Borrower, and the Revolving Lenders; and
  - (K) the aggregate amount of Canadian Prime Rate Loans and U.S. Base Rate Loans (other than Swingline Loans) shall be in an amount not less than CDN\$1,000,000 or an integral multiple of CDN\$500,000 in excess thereof and \$1,000,000 or an integral multiple of \$500,00 in excess thereof, respectively; and
  - (L) the aggregate amount of Swingline Loans shall be in an amount not less than \$500,000 or an integral multiple of \$100,000 in excess thereof.
- (iv) Notwithstanding anything to the contrary contained herein, Agent and Lenders shall not be required to purchase Canadian Dollar, Euro or U.S. Dollar deposits in the Canadian bankers' acceptance, London, Euro, Canadian or other applicable interbank market to fund any Revolving Loans, but the provisions hereof shall be deemed to apply as if Agent or Lenders had purchased such deposits to fund such Revolving Loans.

### 3.2 Changed Circumstances

- (a) Circumstances Affecting CDOR Rate, Term SOFR or Eurocurrency Rate Availability. Subject to clause (c) below, in connection with any CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan, a request therefor, a conversion to or a continuation thereof or otherwise, if for any reason (i) the Agent shall determine (which determination shall be conclusive and binding absent manifest error) that if the CDOR Rate, Adjusted Term SOFR or a Eurocurrency Rate is utilized in any calculations hereunder or under any other Financing Agreement with respect to any Obligations, interest, fees, commissions or other amounts, reasonable and adequate means do not exist for ascertaining the CDOR Rate, the Adjusted Term SOFR or such Eurocurrency Rate, as applicable, for the applicable Currency and the applicable Interest Period with respect to a proposed CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan, as applicable, on or prior to the first day of such Interest Period, (ii) with respect to any CDOR Rate Loan or Eurocurrency Rate Loan, the Agent shall determine (which determination shall be conclusive and binding absent manifest error) that deposits are not being offered in the applicable Currency to banks in the London or other applicable offshore interbank market for the applicable Currency, amount or Interest Period of such CDOR Rate Loan or Eurocurrency Rate Loan, or (iii) the Required Lenders shall determine (which determination shall be conclusive and binding absent manifest error) that if the CDOR Rate, the Adjusted Term SOFR or a Eurocurrency Rate, as applicable, is utilized in any calculations hereunder or under any other Financing Agreement with respect to any Obligations, interest, fees, commissions or other amounts, the CDOR Rate, the Adjusted

Term SOFR or such Eurocurrency Rate, as applicable, does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during the applicable Interest Period and the Required Lenders have provided notice of such determination to the Agent, then, in each case, the Agent shall promptly give notice thereof to the Borrower. Upon notice thereof by the Agent to the Borrower, any obligation of the Lenders to make CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans, as applicable, in each such Currency, and any right of the Borrower to convert any Loan in each such Currency (if applicable) to or continue any Loan as a CDOR Rate Loan, a Term SOFR Loan or a Eurocurrency Rate Loan, as applicable, in each such Currency, shall be suspended (to the extent of the affected CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans or the affected Interest Periods) until the Agent (with respect to clause (iv), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans in each such affected Currency (to the extent of the affected CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans or the affected Interest Periods) or, failing that, (I) in the case of any request for a borrowing of an affected Term SOFR Loan, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to U.S. Base Rate Loans in the amount specified therein, (II) in the case of any request for borrowing of an affected CDOR Rate Loan, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Canadian Prime Rate Loans and (III) in the case of any request for a borrowing of an affected Eurocurrency Rate Loan in an Alternate Currency, then such request shall be ineffective and (B)(I) any outstanding affected Term SOFR Loans will be deemed to have been converted into U.S. Base Rate Loans at the end of the applicable Interest Period, (II) any outstanding affected CDOR Rate Loans will be deemed to have been converted into Canadian Prime Rate Loans at the end of the applicable Interest Period and (III) any outstanding affected Loans denominated in an Alternate Currency other than Canadian Dollars, at the Borrower's election, shall either be converted into U.S. Base Rate Loans denominated in U.S. Dollars (in an amount equal to the Dollar Equivalent of such Alternate Currency) at the end of the applicable Interest Period or be prepaid in full at the end of the applicable Interest Period; provided that if no election is made by the Borrower by the date that is the earlier of (x) three (3) Business Days after receipt by the Borrower of such notice or (y) the last day of the current Interest Period, the Borrower shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.3.

- (b) Laws Affecting CDOR Rate, Term SOFR or Eurocurrency Rate Availability. If, after the date hereof, the introduction of, or any change in, any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Lenders (or any of their respective Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Lenders (or any of their respective Lending Offices) to honor its obligations

hereunder to make or maintain any CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan, or to determine or charge interest based upon any of the CDOR Rate, Term SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR, the Eurocurrency Rate or the Adjusted Eurocurrency Rate, such Lender shall promptly give notice thereof to the Agent and the Agent shall promptly give notice to the Borrower and the other Lenders (each, an “**Illegality Notice**”). Thereafter, until each affected Lender notifies the Agent and the Agent notifies the Borrower that the circumstances giving rise to such determination no longer exist, (i) any obligation of the Lenders to make CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans, as applicable, in the affected Currency or Currencies, and any right of the Borrower to convert any Loan denominated in U.S. Dollars to a Term SOFR Loan or any Loan denominated in Canadian Dollars to a CDOR Rate Loan or continue any Loan as a CDOR Rate Loan, a Term SOFR Loan or a Eurocurrency Rate Loan, as applicable, in the affected Currency or Currencies shall be suspended and (ii) if necessary to avoid such illegality, the Agent shall compute the U.S. Base Rate without reference to clause (c) of the definition of “U.S. Base Rate”. Upon receipt of an Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Agent), prepay or, if applicable, (A) convert all Term SOFR Loans to U.S. Base Rate Loans, (B) convert all CDOR Rate Loans into Canadian Prime Rate Loans or (C) convert all Eurocurrency Rate Loans denominated in an affected Alternate Currency to U.S. Base Rate Loans denominated in U.S. Dollars (in an amount equal to the Dollar Equivalent of such Alternate Currency) (in each case, if necessary to avoid such illegality, the Agent shall compute the U.S. Base Rate without reference to clause (c) of the definition of “U.S. Base Rate”) on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such CDOR Rate Loans, Eurocurrency Rate Loans or Term SOFR Loans, as applicable, to such day, or immediately, if any Lender may not lawfully continue to maintain such CDOR Rate Loans, Eurocurrency Rate Loans or Term SOFR Loans, as applicable, to such day. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.3.

(c) Benchmark Replacement Setting.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Financing Agreement, upon the occurrence of a Benchmark Transition Event with respect to any Benchmark, the Agent and the Borrower may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York time) on the fifth (5<sup>th</sup>) Business Day after the Agent has posted such proposed amendment to all affected Lenders and the Borrower so long as the Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 3.2(c)(i) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the

contrary herein or in any other Financing Agreement, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Financing Agreement.

(iii) Notices; Standards for Decisions and Determinations. The Agent will promptly notify the Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Agent will promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 3.2(c)(iv). Any determination, decision or election that may be made by the Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 3.2(c), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Financing Agreement, except, in each case, as expressly required pursuant to this Section 3.2(c).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Financing Agreement, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if any then-current Benchmark is a term rate (including the Term SOFR Reference Rate, Euribor or CDOR) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) Benchmark Unavailability Period. Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of CDOR Rate Loans, Term SOFR Loans or Eurocurrency Rate Loans, in each case, to be made, converted or continued during any Benchmark Unavailability Period denominated in the applicable Currency and, failing that, (I) in the case of any request for any affected Term SOFR Loans, if applicable, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to U.S. Base Rate Loans in the amount specified therein, (II) in the case of any request for any affected CDOR Rate Loans, if applicable, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Canadian Prime Rate Loans and (III) in the case of any request for any affected Eurocurrency Rate Loan, in each case, in an Alternate Currency, if applicable, then such request shall be ineffective and (B)(I) any outstanding affected Term SOFR Loans, if applicable, will be deemed

to have been converted into U.S. Base Rate Loans at the end of the applicable Interest Period, (II) any outstanding affected CDOR Rate Loans, if applicable, will be deemed to have been converted into Canadian Prime Rate Loans at the end of the applicable Interest Period and (III) any outstanding affected Eurocurrency Rate Loans denominated in an Alternate Currency, at the Borrower's election, shall either (1) be converted into U.S. Base Rate Loans denominated in U.S. Dollars (in an amount equal to the Dollar Equivalent of such Alternate Currency) at the end of the applicable Interest Period or (2) be prepaid in full at the end of the applicable Interest Period; provided that, with respect to any Eurocurrency Rate Loan, if no election is made by the Borrower by the earlier of (x) the date that is three (3) Business Days after receipt by the Borrower of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Rate Loan, the Borrower shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.3. During a Benchmark Unavailability Period with respect to any Benchmark or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of the U.S. Base Rate based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable, will not be used in any determination of U.S. Base Rate.

- (d) Circumstances Affecting Alternate Currencies. In the event that Agent shall have determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) at any time that any Alternate Currency (other than Canadian Dollars and Euros) is not available in sufficient amounts, as determined in good faith by Agent, then Agent shall promptly give written notice thereof to Borrower and Lenders. Thereafter, until Agent notifies in writing Borrower and Lenders that such circumstances no longer exist, the new Alternate Currency Loans denominated in the affected Alternate Currency (other than any such Alternate Currency Loans which have theretofore been funded) shall no longer be available and any Notice of Borrowing given by with respect to such Alternate Currency Loans which have not yet been incurred shall be deemed rescinded by Borrower.

### **3.3 Compensation for Breakage or Non-Commencement of Interest Periods**

The Borrower hereby indemnifies each of the Lenders against any loss, cost or expense (including any loss, cost or expense arising from the liquidation or reemployment of funds or from any fees payable) which may arise, be attributable to or result due to or as a consequence of (a) any failure by the Borrower to make any payment when due of any amount due hereunder in connection with a CDOR Rate Loan, Term SOFR Loan or a Eurocurrency Rate Loan, (b) any failure of the Borrower to borrow or continue a CDOR Rate Loan, Term SOFR Loan or a Eurocurrency Rate Loan or convert to a CDOR Rate Loan, Term SOFR Loan or a Eurocurrency Rate Loan on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation, (c) any payment, prepayment or conversion of any CDOR Rate Loan, Term SOFR Loan or Eurocurrency Rate Loan on a date other than the last day of the Interest Period therefor (including as a result of an Event of Default) or (d) the assignment of any CDOR Rate Loan, Eurocurrency Rate Loan or Term SOFR Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 3.6(b). In the case of a CDOR Rate Loan or Eurocurrency Rate Loan, the amount of such loss or expense shall be determined, in the applicable Lender's sole discretion, based upon the assumption that such Lender funded its Pro



Rata Share of the CDOR Rate Loan or Eurocurrency Rate Loans in the London or other applicable offshore interbank market for such Currency, whether or not such CDOR Rate Loan or Eurocurrency Rate Loan was in fact so funded, and using any reasonable attribution or averaging methods which such Lender deems appropriate and practical. A certificate of such Lender setting forth the basis for determining such amount or amounts necessary to compensate such Lender shall be forwarded to the Borrower through the Agent and shall be conclusively presumed to be correct save for manifest error. All of the obligations of the Credit Parties under this Section 3.3 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Financing Agreement.

### **3.4 Increased Costs**

- (a) If any Change in Law shall:
- (i) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the FRB for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D of the FRB, as amended and in effect from time to time)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or advances, loans or other credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Eurocurrency Rate) or any Issuing Lender;
  - (ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or
  - (iii) impose on any Lender or any Issuing Lender or the London, Euro, Canadian or other applicable interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit Accommodations or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender, the Issuing Lender or such other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit Accommodations (or of maintaining its obligation to participate in or to issue any Letter of Credit Accommodations), or to reduce the amount of any sum received or receivable by such Lender, such Issuing Lender or such other Recipient hereunder (whether of principal, interest or any other amount) then, upon written request of such Lender, such Issuing Lender or other Recipient, Borrower shall within 30 days after receipt of the certificate referred to in clause (c) below, pay to any such Lender, such Issuing Lender or other Recipient, as the case may be,

such additional amount or amounts as will compensate such Lender, such Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

- (b) Capital Requirements. If any Lender or any Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Lending Office of such Lender or such Lender's or such Issuing Lender's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or such Issuing Lender's capital or on the capital of such Lender's or such Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by, or participations in Letter of Credit Accommodations or Loans held by, such Lender, or the Letter of Credit Accommodations issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Lender's policies and the policies of such Lender's or such Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon written request of such Lender or such Issuing Lender, Borrower shall within 30 days after receipt of the certificate referred to in clause (c) below, pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company for any such reduction suffered.
- (c) Certificates for Reimbursement. A certificate of a Lender, or an Issuing Lender or such other Recipient setting forth the amount or amounts necessary to compensate such Lender or such Issuing Lender, such other Recipient or any of their respective holding companies, as the case may be, as specified in clause (a) or (b) of this Section and delivered to Borrower, shall be conclusive absent manifest error.
- (d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Lender or such other Recipient to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Lender's or such other Recipient's right to demand such compensation; provided that Borrower shall not be required to compensate any Lender or an Issuing Lender or any other Recipient pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or such Issuing Lender or such other Recipient, as the case may be, notifies Borrower of the Change in Law giving rise to such increased costs or reductions, and of such Lender's or such Issuing Lender's or such other Recipient's intention to claim compensation therefor (except that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

### 3.5 Taxes

- (a) Defined Terms. For purposes of this Section 3.5, the term "Lender" includes any Issuing Lender and the term "Applicable Law" includes FATCA.

- (b) Payments Free of Taxes. Any and all payments by or on account of any obligation of Borrower under this Agreement and any other documents entered into in connection herewith shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by Borrower shall be increased as necessary so that, after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section), the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.
- (c) Payment of Other Taxes by Borrower. Borrower shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of Agent timely reimburse it for the payment of, any Other Taxes.
- (d) Indemnification by Borrower. Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by a Recipient (with a copy to Agent), or by Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.
- (e) Indemnification by the Lenders. Each Lender shall severally indemnify Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that Borrower has not already indemnified Agent for such Indemnified Taxes and without limiting the obligation of Borrower to do so), and (ii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Agent in connection with this Agreement or any other documents entered into in connection herewith, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to setoff and apply any and all amounts at any time owing to such Lender under any Financing Agreement or otherwise payable by Agent to the Lender under this Agreement or any other documents entered into in connection herewith from any other source against any amount due to Agent under this clause (e).
- (f) Evidence of Payments. As soon as practicable after any payment of Taxes by Borrower to a Governmental Authority pursuant to this Section 3.5, Borrower shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Authority

evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(g) Status of Lenders.

- (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under this Agreement or any other documents entered into in connection herewith shall deliver to Borrower and Agent, at the time or times reasonably requested by Borrower or Agent, such properly completed and executed documentation reasonably requested by Borrower or Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by Borrower or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrower or Agent as will enable Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.
- (ii) Without limiting the generality of subclause (i) of this clause (g), each Lender shall deliver to the Borrower and the Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), duly completed copies of IRS Form W-8BEN, W-8BEN-E, W-8ECI, W-8IMY, W-8EXP or W-9, as may be applicable, together with any attachments, if required to establish that such Lender is exempt from United States backup withholding taxes.
- (iii) Without limiting the generality of subclause (i) of this clause (g), if a payment made to a Lender under this Agreement or any other documents entered into in connection herewith would be subject to Tax under FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to Borrower and Agent at the time or times prescribed by law and at such time or times reasonably requested by Borrower or Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrower or Agent as may be necessary for Borrower and Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.5(g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect,

it shall update such form or certification or promptly notify Borrower and Agent in writing of its legal inability to do so.

- (h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.5 (including by the payment of additional amounts pursuant to this Section 3.5), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.
- (i) Survival. Each party's obligations under this Section 3.5 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under this Agreement or any other documents entered into in connection herewith.

### **3.6 Mitigation Obligations; Replacement of Lenders.**

- (a) Designation of a Different Lending Office. If any Lender (an "**Increased-Cost Lender**") requests compensation under Section 3.2 or Section 3.4, or requires Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.5, then such Lender shall, at the request of Borrower, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.4 or Section 3.5, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

- (b) Replacement of Lenders. Notwithstanding anything to the contrary contained herein, in the event that any Increased-Cost Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.6(a), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then Borrower may, at its sole expense and effort, upon notice to such Lender and Agent, require such Lender (and such Lender hereby irrevocably agrees) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.1), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.4 or Section 3.5) and obligations under this Agreement and the related Financing Agreement to an Eligible Transferee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:
- (i) the assignee (or failing which, Borrower) shall have paid to Agent the assignment fee (if any) specified in Section 11.1;
  - (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in Letter of Credit Accommodations and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Financing Agreements (including any amounts under Section 3.3) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower (in the case of all other amounts);
  - (iii) in the case of any such assignment resulting from a claim for compensation under Section 3.2 or Section 3.4 or payments required to be made pursuant to Section 3.5, such assignment will result in a reduction in such compensation or payments thereafter;
  - (iv) such assignment does not conflict with Applicable Law; and
  - (v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply. Upon the prepayment of all amounts owing to any such Lender and the termination of such Lender's Revolving Loan Commitments, such Lender shall no longer constitute a "Lender" for purposes hereof; provided any rights of such Lender to indemnification and to expense reimbursement hereunder shall survive as to such Lender. Each Lender agrees that, if it becomes an Increased-Cost Lender, Defaulting Lender or a Non-Consenting Lender and its rights and claims are assigned hereunder to an assignee pursuant to this Section 3.6(b), it shall execute and deliver to Agent an Assignment and Assumption Agreement to evidence such assignment; provided, however, that the failure of any Lender to

execute an Assignment and Assumption Agreement shall not render such assignment invalid.

- (c) Selection of Lending Office. Subject to Section 3.6(a), each Lender may make any Loan to Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligations of Borrower to repay the Obligations in accordance with the terms of this Agreement or otherwise alter the rights of the parties hereto.

### 3.7 Commitment Fee

- (a) Borrower shall pay to Agent a commitment fee at the Applicable Margin for commitment fees, in each case calculated on the basis of a 360 day year and actual days elapsed and upon the amount by which the then applicable Revolving Loan Commitment exceeds the sum of (i) the average daily principal balance of the outstanding Revolving Loans and (ii) the average daily face amount of the Letter of Credit Accommodations during the immediately preceding Fiscal Quarter (or part thereof) while this Agreement is in effect and for so long thereafter as any of the Obligations are outstanding, which commitment fee shall be payable on the last Business Day of each Fiscal Quarter in arrears. For further clarity, no Obligations will be outstanding once this Agreement has been terminated and all non-contingent Obligations have been fully satisfied and cash collateral (or a backstop letter of credit) has been provided in the full amount then outstanding of any Letter of Credit Accommodations, if any. This commitment fee shall not be payable to a Lender during the period it is a Defaulting Lender.

### 3.8 Defaulting Lenders.

- (a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 10 or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 11.12 shall be applied at such time or times as may be determined by the Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Lender or the Swingline Lender hereunder; *third*, to cash collateralize the Fronting Exposure of the Issuing Lender and the Swingline Lender with respect to such Defaulting Lender in a manner reasonably satisfactory to the Issuing Lender or the Swingline Lender, as the case may be, *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan or funded participation in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; *fifth*, if so determined by the Agent and the Borrower, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans and funded participations under this Agreement and (B) cash collateralize the Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letter of Credit

Accommodations issued under this Agreement, in a manner reasonably satisfactory to the Issuing Lender; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lender or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lender or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or funded participations in Letter of Credit Accommodations or Swingline Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letter of Credit Accommodations or Swingline Loans were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and funded participations in Letter of Credit Accommodations or Swingline Loans owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or funded participations in Letter of Credit Accommodations or Swingline Loans owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Accommodations and Swingline Loans are held by the Revolving Lenders pro rata in accordance with the Revolving Loan Commitments under the applicable Revolving Loan Facility without giving effect to Section 3.8(a)(iii). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section 3.8(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any commitment fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive letter of credit fees pursuant to Section 2.2(b) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the stated amount of Letter of Credit Accommodations for which it has provided cash collateral.

(C) With respect to any commitment fee or letter of credit fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Accommodations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iii) below, (2) pay to the Issuing Lender and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the Issuing Lender's or the Swingline



Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iii) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Accommodations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Revolving Loan Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Loan Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Loan Commitment. Subject to Section 13.9, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(iv) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, repay Swingline Loans in an amount equal to the Swingline Lenders' Fronting Exposure and (y) second, cash collateralize the Issuing Lender's Fronting Exposure in a manner reasonably satisfactory to the Issuing Lender.

(b) Defaulting Lender Cure. If the Borrower, the Agent, the Issuing Lender and the Swingline Lender agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letter of Credit Accommodations and Swingline Loans to be held pro rata by the Lenders in accordance with their respective Revolving Loan Commitments (without giving effect to Section 3.8(a)(iii)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

## **ARTICLE 4**

### **CONDITIONS PRECEDENT**

#### **4.1 Conditions Precedent to the Availability of Revolving Loans and Letter of Credit Accommodations**

Except for those items that are permitted to be satisfied on a post-closing basis pursuant to Section 7.16, each of the following is a condition precedent to Lenders making available the Revolving Loans and making available the Letter of Credit Accommodations hereunder on and after the Restatement Effective Date:

- (a) Agent shall have received the following documents, all in form and substance satisfactory to Agent on or prior to the Restatement Effective Date:
- (i) an omnibus information certificate from each of the Credit Parties;
  - (ii) this Agreement;
  - (iii) a confirmation of existing guarantees and security between the Credit Parties and Agent, acting as agent for and on behalf of the Secured Parties;
  - (iv) a deed of confirmation granted by IMAX Ireland in favor of Agent, acting as agent for and on behalf of the Secured Parties;
  - (v) an equitable share mortgage by and between IMAX Barbados and Agent acting as agent for and on behalf of the Secured Parties;
  - (vi) resolutions of the Board of Directors or similar governing body of each Credit Party approving and authorizing the execution, delivery and performance of this Agreement and the other Financing Agreements to which it is a party, certified as of the Restatement Effective Date by its officer as being executed and delivered and in full force and effect without modification or amendment or, if not applicable under the Applicable Laws of the relevant jurisdiction, in a similar form;
  - (vii) customary written opinions of (i) Latham & Watkins LLP, U.S. counsel for Credit Parties, (ii) McCarthy Tétrault LLP, Canadian counsel for Credit Parties, (iii) Clarke Gittens Farmer, Barbados counsel for Lenders, (iv) Walkers (located in The Cayman Islands), Cayman counsel for Lenders, and (v) Walkers (located in Ireland), Irish counsel for Lenders;
  - (viii) any and all documents and instruments required to perfect or evidence Agent's security interest in and liens on the Collateral (including, without limitation, all certificates evidencing pledged capital stock or membership or partnership interests, as applicable, with accompanying executed stock powers, all PPSA and UCC financing statements to be filed in the applicable government PPSA and UCC filing offices and all intellectual property security agreements to be filed with the Intellectual Property Offices in Canada and the United States, as applicable);
  - (ix) any PPSA, UCC and other lien searches, intellectual property searches and insurance policies;
  - (x) in respect of any written request made no less than five (5) Business Days prior to the Restatement Effective Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the *Patriot Act*;

- (xi) a certificate from a Responsible Officer of the Borrower to the effect that (A) all representations and warranties of the Credit Parties contained in this Agreement and the other Financing Agreements are true, correct and complete in all material respects (except to the extent any such representation and warranty is qualified by materiality or reference to Material Adverse Effect, in which case, such representation and warranty shall be true, correct and complete in all respects); (B) after giving effect to the transactions contemplated hereby, no Default or Event of Default has occurred and is continuing; and (C) after giving effect to the transactions contemplated hereby, the condition set forth in Section 4.1(b) is satisfied;
  - (xii) a certificate of a Responsible Officer of each Credit Party certifying as to the incumbency and genuineness of the signature of each officer of such Credit Party executing Financing Agreements to which it is a party and certifying that attached thereto is a true and correct copy of (A) the articles or certificate of incorporation or formation (or equivalent), as applicable, of such Credit Party and all amendments thereto, certified (save in the case of IMAX Ireland) as of a recent date by the appropriate Governmental Authority in its jurisdiction of incorporation, organization or formation (or equivalent), as applicable, (B) the bylaws, constitution or governing documents of such Credit Party as in effect on the Restatement Effective Date, (C) resolutions duly adopted by the board of directors (or other governing body) of such Credit Party described in clause (ix) above and (D) where applicable, a certificate of a recent date of the good standing of each Credit Party under the laws of its jurisdiction of incorporation, organization or formation (or equivalent), as applicable; and
  - (xiii) evidence of property, business interruption and liability insurance covering each Credit Party (with appropriate endorsements naming the Agent as lender's loss payee on all policies for property hazard insurance and as additional insured on all policies for liability insurance), in each case in form and substance reasonably satisfactory to the Agent.
- (b) since December 31, 2021, there shall not have occurred any event or condition that has had or could be reasonably expected, either individually or in the aggregate, to have a Material Adverse Effect; provided that, solely with respect to determining whether a Material Adverse Effect under clause (a) of the definition of Material Adverse Effect has occurred or could reasonably be expected to occur during the Designated Period, the effects of the COVID-19 pandemic on the results of operations of the Borrower and its Subsidiaries that have been disclosed in writing to the Agent and the Lenders prior to the Second Amendment Effective Date shall be disregarded;
- (c) all fees and reasonable out-of-pocket expenses due on the Restatement Effective Date to the Lenders, Agent and counsel to Agent for which an invoice has been presented at least two (2) Business Days prior to the Restatement Effective Date (or such shorter period as may be reasonably requested by Agent and acceptable to Borrower, acting reasonably) or as set forth on a settlement statement or funds flow approved by the Borrower, will be paid; and

- (d) Arranger will have received, in form and substance reasonably satisfactory to the Arranger, projections prepared by Borrower of balance sheets, income statements and cashflow statements of Borrower and its Subsidiaries.

#### **4.2 Conditions Precedent to the Availability of All Loans and Letter of Credit Accommodations**

Each of the following is an additional condition precedent to Lenders making available the Loans and/or making available Letter of Credit Accommodations to Borrower, including the initial Loans and Letter of Credit Accommodations and any future Loans and Letter of Credit Accommodations:

- (a) all steps required with respect to notice and request for the making available of the Loans and/or making available Letter of Credit Accommodations to Borrower set out or contemplated herein have been completed;
- (b) all representations and warranties contained in the Financing Agreements shall be true and correct (i) in all material respects if not subject to materiality or Material Adverse Effect qualifications or (ii) in all respects if subject to materiality or Material Adverse Effect qualifications in each case with the same effect as though such representations and warranties had been made on and as of the date of the making of each such Loan or providing each such Letter of Credit Accommodation (except for any such representation and warranty that by its terms is made only as of an earlier date, which representation and warranty shall remain true and correct in all material respects if not subject to materiality or Material Adverse Effect qualifications as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects as of such earlier date) and after giving effect thereto;
- (c) no Event of Default or Default shall have occurred and be continuing on and as of the date of the making of such Loan or providing, amending or extending each such Letter of Credit Accommodation and after giving effect thereto;
- (d) after giving effect to each Revolving Loan and Letter of Credit Accommodation, (i) the Revolving Loan Outstandings shall not exceed the Revolving Loan Commitment, (ii) the Revolving Loan Exposure of any Lender shall not exceed such Lender's Revolving Loan Commitment, (iii) the aggregate outstanding amount of the Letter of Credit Accommodations shall not exceed the Letter of Credit Accommodations Sublimit and (iv) the aggregate principal amount (using the Dollar Equivalent thereof) of all Alternate Currency Loans shall not exceed the Alternate Currency Revolving Loan Sublimit; and
- (e) after giving effect to each Incremental Term Loan, the Incremental Term Loans of any Term Lender shall not exceed such Term Lender's Incremental Term Loan Commitment.

**ARTICLE 5**  
**COLLECTION AND ADMINISTRATION**

**5.1 Borrower's Loan Account**

Agent shall maintain one or more loan account(s) on its books in which shall be recorded: (a) all Loans, Letter of Credit Accommodations and other Obligations and the Collateral; (b) all payments made by or on behalf of Borrower; and (c) all other appropriate debits and credits as provided in this Agreement, including fees, charges, costs, expenses and interest. All entries in the loan account(s) shall be made in accordance with Agent's customary practices as in effect from time to time. The accounts or records maintained by the Agent and each Lender or the Issuing Lender shall be conclusive absent manifest error of the amount of the Loans and Letter of Credit Accommodations made by the Lenders or the Issuing Lender to the Borrower and its Subsidiaries and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender or the Issuing Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a promissory note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its notes and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

In addition to the accounts and records referred to in the prior paragraph, each Revolving Lender and the Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Revolving Lender of participations in Letter of Credit Accommodations and Swingline Loans. In the event of any conflict between the accounts and records maintained by the Agent and the accounts and records of any Revolving Lender in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error.

**5.2 Statements**

Borrower may from time to time request and Agent shall promptly provide to Borrower, within a reasonable period of time following such request, statements setting forth the balance in the Borrower's loan accounts maintained by the Agent pursuant to the provisions of this Agreement, including principal and interest amounts and accrued and unpaid fees.

**5.3 Payments**

- (a) All Obligations (other than obligations, liabilities and indebtedness in connection with any Secured Hedge Agreement (which shall be paid in accordance with the terms thereof)) shall be payable to Agent as it may designate from time to time.
- (b) Agent shall apply payments received or collected from Credit Parties or for the account of Credit Parties (including the monetary proceeds of collections or of realization upon any Collateral) as follows:
  - (i) first, ratably, to pay any fees, indemnities or expense reimbursements then due to Agent and Lenders from Credit Parties;

- (ii) second, to pay interest then due in respect of any Loans;
  - (iii) third, to pay principal then due in respect of the Loans and outstanding obligations due under Secured Hedge Agreements and Secured Cash Management Agreements; and
  - (iv) fourth, to pay the outstanding Loans and cash collateralize outstanding Letter of Credit Accommodations, Secured Hedge Agreements, and Secured Cash Management Agreements and after the occurrence of and during the continuance of an Event of Default, to pay or pre-pay such of the Obligations, whether or not then due, in such order and manner as Agent determines.
- (c) Notwithstanding clause (b) above, Obligations arising under Secured Hedge Agreements and Secured Cash Management Agreements shall be excluded from the application described above if Agent has not received written notice thereof, together with such supporting documentation as Agent may request, from the applicable Hedge Bank or Cash Management Bank, as the case may be. Each Hedge Bank or Cash Management Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of Agent pursuant to the terms of Article 11 for itself and its Affiliates as if a “Lender” party hereto.
- (d) Payments and collections received in any currency other than Canadian Dollars, Euros and U.S. Dollars will be accepted and/or applied at the sole discretion of Agent. At Agent’s option, and to the extent such amounts are overdue, all principal, interest, fees, costs, expenses and other charges provided for in the Financing Agreements, the Secured Hedge Agreements or the Secured Cash Management Agreements may be charged directly to the loan account(s) of Borrower. Subject to Section 3.5 and except as otherwise required by Applicable Law, Borrower shall make all payments to Agent on the Obligations free and clear of, and without deduction or withholding for or on account of, any set-off, counterclaim, defense, duties, taxes, levies, imposts, fees, deductions, withholding, restrictions or conditions of any kind. If after receipt of any payment of, or proceeds of Collateral applied to the payment of, any of the Obligations, Agent or any Lender is required to surrender or return such payment or proceeds to any Person for any reason, then the Obligations intended to be satisfied by such payment or proceeds shall be reinstated and continue and this Agreement shall continue in full force and effect as if such payment or proceeds had not been received by Agent. Borrower shall be liable to pay to Agent and each Lender, and does hereby indemnify and hold Agent and each Lender harmless for, the amount of any payments or proceeds surrendered or returned. This Section 5.3 shall remain effective notwithstanding any contrary action which may be taken by Agent or any Lender in reliance upon such payment or proceeds. The indemnification in the second preceding sentence shall survive the payment of the Obligations and the termination of this Agreement.

#### **5.4 Authorization to Make Loans and Letter of Credit Accommodations**

Each Lender is authorized to make the Loans and provide the Letter of Credit Accommodations based upon written instructions received by Agent from the persons authorized by Borrower as notified in writing by Borrower to Agent from time to time or, at the discretion of Lenders, if such Loans are necessary to satisfy any Obligations that are overdue. All Loans and Letter of Credit Accommodations under this Agreement shall be conclusively presumed to have been made to, and at the request of and for the benefit of, Borrower when deposited to the credit of Borrower or otherwise disbursed or established in accordance with the instructions of Borrower or in accordance with the terms and conditions of this Agreement.

#### **5.5 Use of Proceeds**

Borrower shall use the proceeds of the Loans provided by Lenders to Borrower hereunder to (a) pay costs, expenses and fees in connection with the preparation, negotiation, execution and delivery of the Financing Agreements and (b) finance ongoing working capital requirements and other general corporate purposes of Borrower and its Subsidiaries, including the financing of permitted acquisitions and other permitted investments, permitted stock buybacks and dividends.

#### **5.6 Pro Rata Treatment**

Except to the extent otherwise provided in this Agreement, (a) the making and conversion of Revolving Loans shall be made by Revolving Lenders based on their respective Pro Rata Shares as to the Revolving Loans and (b) each payment on account of any Obligations to or for the account of one or more of Lenders or their respective Affiliates in respect of any Obligations due on a particular day shall be allocated among the Lenders and their respective Affiliates, as applicable, entitled to such payments based on their respective Pro Rata Shares and shall be distributed accordingly by Agent.

#### **5.7 Obligations Several; Independent Nature of Lenders' Rights**

The obligations of each Lender hereunder are several, and no Lender shall be responsible for the obligations or commitment of any other Lender hereunder. Nothing contained in this Agreement or any of the other Financing Agreements and no action taken by the Lenders pursuant hereto or thereto shall be deemed to constitute the Lenders to be a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and subject to Section 11.13(f) hereof, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

### **ARTICLE 6 REPRESENTATIONS AND WARRANTIES**

Each Credit Party hereby represents and warrants to Agent and each Lender the following (which shall survive the execution and delivery of this Agreement):

## **6.1 Existence, Power and Authority; Subsidiaries; Solvency**

Each Credit Party and each Subsidiary thereof (a) is a Person duly incorporated or organized and validly existing under the laws of its jurisdiction of incorporation or organization and (b) is duly qualified or registered as a foreign or extra-provincial corporation in all provinces, states or other jurisdictions where the nature and extent of the business transacted by it or the ownership of assets makes such qualification necessary, except in each case referred to in clause (a) (other than with respect to each Credit Party) and clause (b) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. The execution, delivery and performance of the Financing Agreements and the transactions contemplated thereunder (a) are all within each Credit Party's and each of its Subsidiaries' corporate or other powers, (b) have been duly authorized, and (c) are not in contravention of law or the terms of its certificate of incorporation, by-laws, or other organizational documentation, or any indenture, agreement or undertaking to which it is a party or by which it or its property are bound except, in each case, with respect to any contravention of any such law, indenture, agreement or undertaking, to the extent that such contravention could not reasonably be expected to have a Material Adverse Effect. The Financing Agreements constitute legal, valid and binding obligations of each Credit Party which is a party thereto enforceable in accordance with their respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, examinership, receivership, moratorium or other laws affecting creditors' rights generally and by general principles of equity. As of the Restatement Effective Date, each Credit Party does not have any Subsidiaries except as set forth on the corporate structure chart attached as Schedule 6.1. Credit Parties and their Subsidiaries, taken as a whole, on a consolidated basis, are Solvent. No Credit Party is an Affected Financial Institution.

## **6.2 Financial Statements; No Material Adverse Change**

The audited consolidated financial statements relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 7.6(a)(ii) have been prepared in accordance with GAAP, except as otherwise expressly noted therein, and fairly present in all material respects its financial condition and the results of its operation as at the dates and for the periods set forth therein, except as otherwise expressly noted therein. The unaudited consolidated financial statements relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 7.6(a)(i) have been prepared in accordance with GAAP, except as expressly noted therein, and fairly present in all material respects its financial condition and the results of its operation as at the dates and for the periods set forth therein, subject in each case to the absence of footnotes and to normal year-end audit adjustments. The projections relating to Borrower most recently delivered by Borrower to Agent pursuant to Section 4.1 or Section 7.6(a)(iv) were prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery (it being understood that such projections may vary from actual results and that such variances may be material). Since December 31, 2021, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect; provided that, solely with respect to determining whether a Material Adverse Effect under clause (a) of the definition of Material Adverse Effect has occurred or could reasonably be expected to occur during the Designated Period, the effects of the COVID-19 pandemic on the results of operations of the Borrower and its Subsidiaries that have been disclosed in writing to the Agent and the Lenders prior to the Second Amendment Effective Date shall be disregarded.



### **6.3 Chief Executive Office; Collateral Locations**

As of the Restatement Effective Date, (a) the chief executive office of each Credit Party is located in the jurisdiction set forth on its Information Certificate and (b) the only locations of Collateral with a value in excess of \$1,500,000 of any of the Credit Parties (other than vehicles and assets temporarily in transit or sent for repair), if any, are the addresses set forth in its Information Certificate.

### **6.4 Priority of Liens; Title to Properties; Intellectual Property Matters**

The Liens granted to Agent under the applicable Financing Agreements constitute valid Liens in favor of Agent for the benefit of the Secured Parties in and upon the Collateral and when (a) financing statements and other filings in appropriate form are filed in the applicable offices of each Credit Party's jurisdiction of organization or formation and in each jurisdiction in which it has assets located (if required by Applicable Law) and applicable documents are filed and recorded, as applicable, in the Intellectual Property Offices in Canada and the United States and (b) upon the taking of possession or control by Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to Agent to the extent possession or control by Agent is required by the applicable Financing Agreement), the Liens created by the applicable Financing Agreements shall constitute fully perfected first priority Liens so far as possible under Applicable Law on, and security interests in (to the extent intended to be created thereby and required to be perfected under the applicable Financing Agreements), all right, title and interest of the grantors in such Collateral in each case free and clear of any Liens other than Permitted Liens. Each Credit Party and each Subsidiary thereof has good and marketable title in fee simple (or local law equivalent) to, or valid leasehold interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for minor defects in title that do not materially interfere with its ability to conduct its business thereon or to utilize such assets for their intended purposes and Permitted Liens. Each Credit Party and each Subsidiary thereof owns or possesses rights to use all material franchises, licenses, copyrights, copyright applications, patents, patent rights or licenses, patent applications, trademarks, trademark rights, service mark, service mark rights, trade names, trade name rights, copyrights and other intellectual property rights (collectively, "**IP Rights**") with respect to the foregoing which are necessary to conduct its business, as currently conducted, except to the extent such failure to own or possess, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. The conduct of the business of any Credit Party or any Subsidiary as currently conducted or as contemplated to be conducted does not infringe upon or violate any IP Rights held by any other Person except for such infringements and violations which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

### **6.5 Tax Returns**

Borrower and its Subsidiaries have filed, or caused to be filed, in a timely manner (with extensions) all Tax returns, reports and declarations which are required to be filed by it (except those in respect of Taxes the calculation or payment of which are being contested in good faith by appropriate proceedings diligently pursued and available to it and except for those returns for those jurisdictions in which failure to do so would not have a Material Adverse Effect). All information in such Tax returns, reports and declarations is complete and accurate in all material respects. Borrower and its Subsidiaries have paid or caused to be paid all Taxes due and payable or claimed due and payable in any assessment received by it, except Taxes (a) the validity of which are being contested in good faith by appropriate proceedings

diligently pursued and available to it and with respect to which adequate reserves have been set aside on its books or (b) for which the failure to pay would not have a Material Adverse Effect. Adequate provision has been made by Borrower and its Subsidiaries for the payment of all accrued and unpaid Taxes whether or not yet due and payable and whether or not disputed.

## **6.6 Litigation**

Except as disclosed in Borrower's Form 10-K, to its knowledge, there is no action, suit, proceeding or claim by any Person pending or threatened in writing against any Credit Party and each Subsidiary thereof or its assets or business, which in each of the foregoing cases, could reasonably be expected to result in a Material Adverse Effect.

## **6.7 Compliance with Applicable Laws; Approvals**

Each Credit Party and each Subsidiary thereof is in compliance in all respects with all Applicable Laws, licenses, permits, approvals and orders of any Governmental Authority except in such instances in which (a) such Applicable Law or license, permit, approval or order is being contested in good faith by appropriate proceedings diligently conducted or (b) the lack of compliance could not reasonably be expected to have a Material Adverse Effect. The execution, delivery and performance by each Credit Party of the Financing Agreements to which it is a party do not and will not (a) require any governmental approval where the failure to obtain such approval could reasonably be expected to have a Material Adverse Effect or (b) require any consent or authorization of, filing with, or other act in respect of, a Governmental Authority and no consent of any other Person is required in connection with such execution, delivery and performance other than (x) consents, authorizations, filings or other acts or consents for which the failure to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (y) consents, authorizations, filings or other acts or consents which have been duly obtained, taken, given or made and are in full force and effect and (z) notices and filings made in connection with the security interests granted under the Financing Agreements.

## **6.8 [Reserved]**

## **6.9 Accuracy of Information**

As of the Restatement Effective Date, no information, taken as a whole, furnished by or on behalf of each Credit Party (other than projected financial information, pro forma financial information and information of a general economic or industry nature) in writing to Agent or a Lender in connection with any of the Financing Agreements or any transaction contemplated hereby or thereby (as modified or supplemented by other written information so furnished), when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein (when taken as a whole), in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected and pro forma financial information, Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery, it being understood that such projections may vary from actual results and that such variances may be material.

## 6.10 Status of Pension Plans and ERISA

Except as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries or except as disclosed in the Borrower's Form 10-K:

- (a) The Pension Plans are duly registered under all applicable provincial pension benefits legislation and there are no other Canadian pension plans of any Credit Party or any Subsidiary thereof other than the Pension Plans.
- (b) All obligations of each Credit Party and each Subsidiary thereof (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Pension Plans or the funding agreements therefor have been performed in a timely fashion. There are no outstanding disputes concerning the assets held pursuant to any such funding agreement.
- (c) All contributions or premiums required to be made by any Credit Party and any Subsidiary thereof to the Pension Plans have been made in a timely fashion in accordance with the terms of the Pension Plans and Applicable Laws.
- (d) All employee contributions to the Pension Plans required to be made by way of authorized payroll deduction have been properly withheld by each Credit Party and each Subsidiary thereof and fully paid into the Pension Plans in a timely fashion in accordance with the terms of the Pension Plans and Applicable Laws.
- (e) All reports and disclosures relating to the Pension Plans required by any Applicable Laws have been filed or distributed in a timely fashion.
- (f) There have been no improper withdrawals, or applications of, the assets of any of the Pension Plans.
- (g) No amount is owing by any of the Pension Plans under the ITA or any provincial taxation statute.
- (h) None of the Pension Plans is a defined benefit registered or unregistered pension plan or contains any "defined benefit provision" as defined in subsection 147.1(1) of the ITA.
- (i) None of the Pension Plans is the subject of an investigation or any other proceeding, action or claim and there exists no state of facts which after notice or lapse of time or both could reasonably be expected to give rise to any such proceeding, action or claim.
- (j) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other U.S. federal or state law. Each Plan which is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service and, to the best of each Credit Party's knowledge, nothing has occurred which would cause the loss of such qualification where such loss, when combined with other such occurrences or failures to comply, has or could reasonably be expected to have a Material Adverse Effect. Each Credit Party and its ERISA Affiliates have made all required contributions to any Plan subject to Section 412

of the Code, and no application for a funding waiver has been made with respect to any Plan.

- (k) There are no pending, or to the best of each Credit Party's knowledge, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan and there has been no prohibited transaction or violation of the fiduciary responsibility rules that would reasonably be expected to result in a material liability to the Plan.
- (l) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) each Credit Party and its ERISA Affiliates have not incurred and do not reasonably expect to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iii) each Credit Party and its ERISA Affiliates have not incurred and do not reasonably expect to incur any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 of ERISA with respect to a Multiemployer Plan; and (iv) each Credit Party and its ERISA Affiliates have not engaged in a transaction that would be subject to Section 4069 or 4212(c) of ERISA.
- (m) As of the Restatement Effective Date the Borrower is not nor will be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letter of Credit Accommodations or the Commitments.

## **6.11 Environmental Compliance**

- (a) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, all Hazardous Materials generated, used, treated, handled, or stored at, or transported or arranged for transport to or from, any property or facility currently or, to the knowledge of Borrower, formerly owned or operated by any Credit Party or any of its Subsidiaries have been disposed of in a manner that would not reasonably be expected to result in any Environmental Liability.
- (b) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no Environmental Claims against any Credit Party or any of its Subsidiaries relating to their respective businesses, operations and properties, and their respective businesses, operations and properties are in compliance with applicable Environmental Laws.
- (c) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the properties currently or, to the knowledge of the Credit Parties, formerly owned or operated by any Credit Party or any of its Subsidiaries do not contain any Hazardous Materials in amounts or concentrations which (i) constitute a violation of, (ii) require response or other corrective action under, or (iii) could be reasonably expected to give rise to liability under, Environmental Laws.
- (d) Except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Credit Party and each Subsidiary thereof has all licenses,

permits, certificates, approvals or similar authorizations required to be obtained or filed in connection with its operations under any Environmental Law.

## 6.12 Specific Legislation

Without limiting Section 6.7:

- (a) Each Credit Party and each Subsidiary or Affiliate is in compliance in material respects with applicable sanctions administered and enforced by OFAC, Global Affairs Canada, the United Nations Security Council, the European Union, any member state of the European Union or the United Kingdom (irrespective of its status vis-a-vis the European Union). No Credit Party or any Subsidiary or Affiliate thereof (i) is a Sanctioned Person or a Sanctioned Entity, (ii) has any of its assets in Sanctioned Entities, or (iii) derives any of its operating income from investments in, or transactions with, Sanctioned Persons or Sanctioned Entities. The proceeds of the Loans and other financial accommodation hereunder will (i) not be used and have not been used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person or a Sanctioned Entity and (ii) comply with sanctions administered and enforced by OFAC, Global Affairs Canada or, to the extent not in conflict with sanctions administered and enforced by OFAC or Global Affairs Canada, any other applicable sanctions authority in any jurisdiction (A) in which the Borrower or any of its Subsidiaries or Affiliates is located or conducts business, (B) in which any of the proceeds of the Loans or the Letter of Credit Accommodations will be used, or (C) from which repayment of the Loans or Letter of Credit Accommodations will be derived.
- (b) Each Credit Party, their Subsidiaries, and their respective directors, officers and employees, and, to the knowledge of each Credit Party, the Affiliates of each Credit Party, are in compliance with the *Foreign Corrupt Practices Act of 1977* and any other applicable anti-corruption law in all material respects. The Credit Parties have instituted and maintain policies and procedures designed to ensure compliance therewith.
- (c) No part of the proceeds of the Loans or other financial accommodations made or provided hereunder will be used by any Credit Party or any Subsidiary or Affiliate thereof, directly or indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the *United States Foreign Corrupt Practices Act of 1977*, as amended or any other anti-corruption law or Anti-Money Laundering Laws.
- (d) No part of the proceeds of the Loans will be used for any purpose that violates the provisions of any of Regulation T, U, or X of the Board of Governors of the Federal Reserve System of the United States of America or to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock and Borrower is not engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock or extending credit for the purpose of purchasing or carrying margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System.

(e) [Reserved].

(f) No Credit Party is an “investment company” (as defined in the *Investment Company Act of 1940*, as amended).

### **6.13 Material Subsidiaries**

As of the Restatement Effective Date, Guarantors are the only Material Subsidiaries of Borrower.

### **6.14 Employee Relations**

As of the Restatement Effective Date, no Credit Party or Subsidiary thereof is party to any collective bargaining agreement and no labor union has been recognized as the representative of any material portion of its employees. Each Credit Party knows of no pending, threatened or contemplated strikes, work stoppage or other collective labor disputes involving its employees or those of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect.

**6.15**[Reserved]

### **6.16 Absence of Defaults**

No event, circumstance or omission has occurred or is continuing which constitutes a Default or an Event of Default.

### **6.17 Senior Indebtedness Status**

The Obligations rank and shall continue to rank senior in priority of payment to all subordinated Debt of each Credit Party and shall be designated as “Senior Indebtedness” under all instruments and documents, now or in the future, relating to all subordinated Debt of such Credit Party.

### **6.18 Flood Hazard Insurance**

With respect to each parcel of real property owned by a Credit Party subject to a Mortgage and located in the United States (and no such parcel exists as of the Restatement Effective Date), all flood hazard insurance policies required hereunder have been obtained and remain in full force and effect, and the premiums thereon have been paid in accordance with the requirements hereunder.

### **6.19 Survival of Warranties; Cumulative**

All representations and warranties contained in any of the Financing Agreements shall survive the execution and delivery of this Agreement and shall be deemed to have been made again to Agent and each Lender on the date of each additional borrowing or other credit accommodation hereunder and shall be conclusively presumed to have been relied on by Agent and each Lender regardless of any investigation made or information possessed by Agent or any Lender. The representations and warranties set forth herein shall be cumulative and in addition to any other representations or warranties which any Credit Party or any Subsidiary thereof shall now or hereafter give, or cause to be given, to Agent or any Lender.

**ARTICLE 7**  
**AFFIRMATIVE COVENANTS**

Until all of the non-contingent Obligations have been paid and satisfied in full, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms satisfactory to Agent) and the Commitment terminated, each Credit Party will, and will cause each of its Subsidiaries to:

**7.1 Maintenance of Existence**

Except to the extent otherwise permitted herein, preserve, renew and keep in full, force and effect (a) its legal existence and (b) its material rights and franchises, permits, licenses, approvals, authorizations, leases and contracts necessary to carry on the business as presently or proposed to be conducted; provided, no Subsidiary (other than a Credit Party) shall be required to preserve any such existence and no Credit Party or a Subsidiary thereof shall be required to preserve any such right or franchise, permit, license, approval, authorization, lease and contract if such Person shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to Lenders. Each Credit Party shall give Agent prompt written notice of any change in its legal name, which notice shall set forth the new name and it shall deliver to Agent a certified copy of the articles of amendment providing for the name change immediately following its filing.

**7.2 New Collateral Locations**

Give Agent reasonable prior written notice if a Credit Party intends to have assets (other than goods in transit) with fair market value in excess of \$1,000,000 located in a Province of Canada not set forth in the Information Certificates as of the Restatement Effective Date.

**7.3 Compliance with Laws**

- (a) Comply in all respects with all Applicable Law and duly observe all requirements of any Governmental Authority, including all Applicable Laws relating to environmental pollution and employee health and safety, including all of the Environmental Laws except for any matter (i) that it is contesting in good faith by appropriate proceedings diligently pursued or (ii) which is not reasonably expected to have a Material Adverse Effect.
- (b) Take prompt action necessary to respond to any violation of any applicable Environmental Laws by such Credit Party or its Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.
- (c) Notify the Agent and each Lender in the event that the Borrower no longer qualifies for an express exclusion to the “legal entity customer” definition under the Beneficial Ownership Regulation and upon receipt of notice from the Agent or any Lender, provide directly to the Agent or such Lender a Beneficial Ownership Certification in compliance with the Beneficial Ownership Regulation.

## 7.4 Payment of Taxes

Duly pay and discharge all Taxes, upon or against it or its properties or assets, except for (a) Taxes, the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to it and with respect to which adequate reserves have been set aside on its books; provided, that the execution or other enforcement of any Lien with respect to such contested Taxes is effectively stayed or otherwise not occurring during such proceedings or (b) Taxes, for which the failure to pay is not reasonably expected to have a Material Adverse Effect.

## 7.5 Insurance

- (a) Maintain, with financially sound and reputable insurers, insurance with respect to the properties and businesses of the Credit Parties and their Subsidiaries as may customarily be insured against or carried by Persons engaged in the same or similar businesses and similarly situated, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons.
- (b) Furnish certificates, policies or endorsements to Agent as Agent shall reasonably require as proof of such insurance, and, if such Credit Party or Subsidiary fails to do so Agent is authorized, but not required, to obtain such insurance at the expense of such Credit Party.
- (c) Cause Agent to be named as a lender's loss payee and/or an additional insured, as applicable (but without any liability for any premiums) under such insurance policies (other than worker's compensation, directors and officers liability or other insurance where such endorsements or additions are not customarily available) and, in the case of (i) each property hazard insurance policy, and if available, obtain a lender's loss payee (and mortgagee, as applicable) clause or endorsement and (ii) each liability insurance policy, and if available, obtain an additional insured clause or endorsement, each in form and substance reasonably satisfactory to Agent.
- (d) Without limiting the foregoing, if any portion of any Material Real Property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the Flood Insurance Laws, then Borrower shall, or shall cause the applicable Credit Party to, (i) maintain, or cause to be maintained, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws, (ii) reasonably cooperate with Agent and provide information reasonably required to comply with the Flood Insurance Laws, (iii) deliver to Agent evidence of such compliance, including evidence of annual renewals of such insurance and (iv) furnish to Agent prompt written notice of any re-designation of any such Material Real Property subject to a Mortgage into or out of a special flood hazard area if, and only if, the applicable Credit Party receives written notice of any such re-designation.



## 7.6 Financial Statements and Other Information

- (a) Keep proper books and records in which true and correct entries shall be made of all financial transactions of or in relation to the Collateral and its business in accordance with GAAP and Borrower shall furnish or cause to be furnished to Agent (for further distribution to the Lenders):
- (i) within 45 days after the end of each of the first 3 Fiscal Quarters of each Fiscal Year, quarterly unaudited consolidated financial statements (including in each case balance sheets, statements of income and loss, statements of cash flow and statements of shareholders' equity with comparisons to the same period in the previous Fiscal Year), all in reasonable detail, fairly presenting, in all material respects, the results of the operations and financial condition of Borrower and its Subsidiaries as of the end of and for the Fiscal Quarter then ended together with a customary management discussion of such financial position and results;
  - (ii) within 90 days after the end of each Fiscal Year, audited consolidated financial statements of Borrower and its Subsidiaries (including in each case balance sheets, statements of income and loss, statements of changes in financial position and statements of shareholders' equity), and the accompanying notes thereto, all in reasonable detail, and the opinion of independent chartered accountants, which accountants shall be an independent accounting firm selected by Borrower, which opinion shall be unqualified as to going concern and scope of audit (other than any exception or explanatory paragraph, but not a qualification, that is expressly solely with respect to, or expressly resulting solely from (x) an upcoming maturity date under this Agreement that is scheduled to occur within one year from the time such report and opinion are delivered or (y) any potential inability to satisfy a financial maintenance covenant, including the financial covenant contained in Section 9.1, on a future date or future period), and shall state that such financial statements have been prepared in accordance with GAAP, and present fairly, in all material respects, the results of operations and financial condition of Borrower and its Subsidiaries as of the end of and for the Fiscal Year then ended;
  - (iii) together with each delivery of financial statements pursuant to Sections 7.6(a)(i) and (ii), a duly executed and completed Compliance Certificate duly executed by the chief financial officer of Borrower;
  - (iv) as soon as practicable and in any event no later than 90 days after the end of each Fiscal Year, projections for the Fiscal Year following such Fiscal Year then ended;
  - (v) as Agent may from time to time reasonably request, and provided that Borrower prepares such information in the ordinary course of business, budgets, forecasts, cash flows and other information respecting the Collateral and the business of each Credit Party; and

- (vi) with respect to each calendar month ending on or prior to the earlier of (x) the receipt by the Agent of a duly executed and completed Compliance Certificate pursuant to Section 7.6(a)(iii) (together with the accompanying financial statements required to be delivered pursuant to Section 7.6(a)(i)) with respect to the Fiscal Quarter ending June 30, 2022 demonstrating compliance with Section 9.1 and (y) the end of the Designated Period, within thirty (30) days after the end of each calendar month (or (1) forty-five (45) days in the case of the last month of a Fiscal Quarter or the first month of a Fiscal Year or (2) seventy-five (75) days in the case of the last month of a Fiscal Year; provided that a reasonably detailed summary statement of Liquidity shall be received by the Agent within thirty (30) days of the first month of a Fiscal Year or forty-five (45) days of the last month of such Fiscal Year) a summary unaudited consolidated balance sheet and profit and loss statements for the Borrower and its Subsidiaries as of the end of such calendar month, all in reasonable detail, fairly presenting, in all material respects, the results of the operations and financial condition of Borrower and its Subsidiaries as of the end of and for the calendar month then ended.
- (b) Promptly, after an officer of any Credit Party has obtained knowledge thereof, notify Agent in writing of the details of (i) the institution of any material litigation not previously disclosed by Credit Parties to Agent, or any material development in any material litigation that is reasonably likely to be adversely determined, and would, in either case, if adversely determined be reasonably expected to have a Material Adverse Effect; (ii) the occurrence of any Event of Default or Default; or (iii) any other event that could reasonably be expected to have a Material Adverse Effect.
- (c) Promptly after the sending or filing thereof, furnish or cause to be furnished to Agent copies of all reports which it sends to all shareholders generally and copies of all reports and registration statements which it files with any national securities commission or securities exchange, and in any case not otherwise required to be delivered to Agent pursuant hereto.

Notwithstanding the foregoing, (i) in the event that Borrower delivers to Agent an Annual Report for Borrower on Form 10-K for such Fiscal Year within ninety (90) days after the end of such Fiscal Year, such Form 10-K shall satisfy all requirements of paragraph (a)(ii) of this Section to the extent that it does not contain any “going concern” or like qualification, exception or explanatory paragraph or qualification or any exception or explanatory paragraph as to the scope of such audit (other than any such exception or explanatory paragraph, but not a qualification, expressly permitted to be contained therein under clause (a)(ii) of this Section 7.6) and (ii) in the event that Borrower delivers to Agent a Quarterly Report for Borrower on Form 10-Q for such Fiscal Quarter within forty five (45) days after the end of such Fiscal Quarter, such Form 10-Q shall satisfy all requirements of paragraph (a)(i) of this Section 7.6.

## **7.7 Intellectual Property**

- (a) Together with the delivery of each Compliance Certificate pursuant to Section 7.6(a), notify Agent in the event any Credit Party obtains or applies for any material intellectual property rights or obtains any material licenses with respect thereto.

- (b) At Agent's request, promptly execute and deliver to Agent an intellectual property security agreement granting to Agent a security interest in such intellectual property rights of a Credit Party in form and substance satisfactory to Agent.

## **7.8 Operation of Pension Plans**

Except as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries:

- (a) administer the Pension Plans in accordance with the requirements of the applicable pension plan texts, funding agreements, the ITA and applicable provincial pension benefits legislation;
- (b) use commercially reasonable efforts to obtain and to deliver to Agent, upon Agent's request, an undertaking of the funding agent for each of the Pension Plans stating that the funding agent will notify Agent within 30 days of such Credit Party's or its Subsidiary's failure to make any required contribution to the applicable Pension Plan;
- (c) not accept payment or the benefit of any amount from any of the Pension Plans without the prior written consent of Agent other than the amount of any forfeitures in connection with terminated employees to be set-off against future contribution obligations that are authorized by (i) Applicable Law or (ii) the prior written consent of any applicable Governmental Authority;
- (d) not terminate, or cause to be terminated, any of the Pension Plans, if such plan would have a solvency or wind up deficiency on termination;
- (e) promptly provide Agent with any documentation relating to any of the Pension Plans as Agent may request; and
- (f) promptly notify Agent within 30 days of: (i) a material increase in the liabilities of any of the Pension Plans; (ii) the establishment of a new registered pension plan; (iii) commencing payment of contributions to a Pension Plan to which a Credit Party or any Subsidiary thereof had not previously been contributing; and (iv) any failure to make any required contribution to a Pension Plan when due.

## **7.9 ERISA**

(a) Not terminate any U.S. Pension Plan so as to incur any liability to the Pension Benefit Guaranty Corporation, (b) make all required contributions to any Plan which it is obligated to pay under Section 302 of ERISA, Section 412 of the Code or the terms of such Plan, (c) not engage in a transaction that could be subject to Section 4069 or 4212(c) of ERISA, or (d) not allow or suffer to exist any occurrence of a reportable event or any other event or condition which presents a risk of termination by the Pension Benefit Guaranty Corporation of any Plan that is a single employer plan, which termination could result in any liability to the Pension Benefit Guaranty Corporation, except, in each case, as would not reasonably be expected to result in material liability to the Borrower and its Subsidiaries.

## 7.10IP Collateral

With respect to the IP Collateral:

- (a) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, notify Agent forthwith in writing upon obtaining knowledge:
  - (i) of any reason any patent, patent application, patent registration, trademark, trademark application, trademark registration, copyright, copyright application, copyright registration, industrial design application or industrial design registration forming part of the material IP Collateral or any other application, registration or proceeding relating to any of the material IP Collateral may become barred, abandoned, refused, rejected, forfeited, withdrawn, expired, lapsed, cancelled, expunged, opposed or dedicated or of any adverse determination or development (including the institution of any proceeding in any Intellectual Property Office or any court or tribunal) regarding any Credit Party's ownership of or rights in any of the material IP Collateral, its right to register or otherwise protect the same, or to keep and maintain the exclusive rights in same, or the validity of same; or
  - (ii) of any action, proceeding, or allegation that the IP Collateral infringes upon, misappropriates, violates, or otherwise interferes with the rights of any Person;
- (b) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, do everything commercially necessary to preserve and maintain the material IP Collateral including (unless Borrower receives the prior written consent of Agent):
  - (i) perform all obligations pursuant to the License Agreements;
  - (ii) commence and prosecute such suits, proceedings or other actions for infringement, passing off, unfair competition, dilution or other damage as are, in its reasonable business judgment, necessary to protect the IP Collateral;
  - (iii) enforce its rights under any agreements (including the License Agreements) which materially enhance the value of and/or protect the material IP Collateral; and
  - (iv) make all necessary filings and recordings in the Intellectual Property Offices and elsewhere necessary to protect its interest in the material IP Collateral or any new material IP Collateral, including making, maintaining and pursuing (including proceedings before Intellectual Property Offices) each application and registration with respect thereto;
- (c) [reserved];
- (d) perform, at Borrower's sole cost and expense, all acts and execute all documents, including grants of security interests or assignments in forms suitable for filing with the

Intellectual Property Offices in Canada and the United States, as may be reasonably requested by Agent at any time and from time to time to evidence, perfect, maintain, record and enforce Agent's Liens in the IP Collateral, or otherwise in furtherance of the provisions of this Agreement;

- (e) unless Agent consents in writing otherwise, or unless such act or failure to act could not reasonably be expected to have a Material Adverse Effect, not do any act or omit to do any act, other than in the ordinary course of its business, whereby any of the IP Collateral, may lapse, become abandoned or dedicated to the public, enter the public domain, lose its quality of confidence, become indistinct, or become unenforceable;
- (f) unless Agent consents in writing otherwise, or unless the failure to so act would not reasonably be expected to have a Material Adverse Effect, with respect to any Trade-mark forming part of the Collateral:
  - (i) continue the use of any such Trade-marks in order to maintain all of the Trade-marks in full force free from any claim of abandonment;
  - (ii) maintain as in the past the character and quality of the wares and services offered in association with such Trade-marks, and use its reasonable best efforts to require its licensees to maintain as in the past the character and quality of the wares and services offered in association with such Trade-marks; and
- (g) except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, require that all use by any Person of any such Trade-marks shall be pursuant to a license that provides it with the requisite control and other provisions to maintain the distinctiveness of such Trade-marks.

### **7.11 Visits and Inspections**

- (a) From time to time as requested by Agent, at the cost and expense of Borrower: (i) provide Agent, any Lender or its designee complete access to all of its premises during normal business hours and after reasonable notice to such Person, or at any time if an Event of Default has occurred and is continuing, for the purposes of inspecting, verifying and auditing the Collateral and all of such Person's books and records, including the Records; and (ii) promptly furnish to Agent and such Lender such copies of such books and records or extracts therefrom as Agent or such Lender may reasonably request, and (iii) permit Agent, any Lender or its designee to use during normal business hours such of such Person's personnel, equipment, supplies and premises as may be reasonably necessary for the foregoing and, if an Event of Default has occurred and is continuing, for the realization of the Collateral; provided that all such visits and inspections shall be coordinated through Agent and Borrower shall pay only for costs and expenses of one such inspection or visit per calendar year in the absence of a Payment/Insolvency Event of Default.
- (b) Agent and each Lender shall keep confidential, in accordance with its customary procedures for handling confidential information and safe and sound lending practices, any non-public information made available to Agent or such Lender pursuant to this

Agreement, including [Section 7.6](#) or [Section 7.11\(a\)](#), and all copies thereof; provided that nothing in this Section shall limit the disclosure of any such information: (i) to the extent required by Applicable Law (and Agent and each Lender shall provide Borrower with prior notice of such required disclosure to the extent permitted by Applicable Law); (ii) to bank examiners and other regulators, auditors and/or accountants; (iii) in connection with any litigation to which Agent or a Lender is a party; (iv) to any assignee or participant (or prospective assignee or participant), in each case, other than to a Prohibited Transferee, so long as such assignee or participant (or prospective assignee or participant), as applicable, shall have first agreed in writing to treat such information as confidential in accordance with this Section; (v) to counsel for Agent or any Lender or any participant or assignee (or prospective participant or assignee other than a Prohibited Transferee) on a confidential basis; and (vi) to any Person with the prior written consent of Borrower. In no event shall this Section, or any other provision of this Agreement or any Applicable Law be deemed to: (i) apply to or restrict disclosure of information that has been or is made public by any Credit Party or Subsidiary thereof or any third party without breach by Agent or any Lender of this Section or otherwise becomes generally available to the public other than as a result of a disclosure in violation hereof; (ii) apply to or restrict disclosure of information that was or becomes available to Agent or any Lender on a non-confidential basis from a person other than a Credit Party of a Subsidiary thereof so long as Agent or such Lender has determined in its good faith judgment that such information is not confidential; (iii) require Agent or any Lender to return any materials furnished by any Credit Party or Subsidiary thereof to Agent; or (iv) prevent Agent from responding to routine informational requests in accordance with applicable industry standards relating to the exchange of credit information.

## **7.12 Material Subsidiaries and Real Property Collateral**

- (a) Notify Agent of the existence of a Material Subsidiary (including by division) and promptly thereafter (and in any event within thirty (30) days after such notice or such longer period, as Agent may agree in its sole discretion), cause such Material Subsidiary to (i) become a Guarantor hereunder by delivering to Agent such agreements as Agent shall deem appropriate for such purpose, (ii) take, whatever action (including, without limitation, the filing of UCC or PPSA financing statements) may be necessary or advisable in the reasonable opinion of Agent to vest in Agent valid and subsisting first priority Liens similar to those provided by the existing Credit Parties on the assets of such Person, (iii) subject to [Section 7.13](#), deliver to Agent such original Equity Interests or other certificates and stock or other transfer powers evidencing the Equity Interests of such Person, (iv) deliver to Agent such updated schedules to the Financing Agreements as reasonably requested by Agent with respect to such Person, and (v) deliver to Agent such other documents as may be reasonably requested by Agent, all in form and substance reasonably satisfactory to Agent.
- (b) [Reserved].
- (c) (i) Promptly after the acquisition of any Material Real Property by any Credit Party that is not subject to a Mortgage (and, in any event, within twenty (20) days after such acquisition, as such time period may be extended by Agent in its sole discretion), notify

Agent and (ii) promptly thereafter (and in any event, within ninety (90) days of such acquisition (as such time period may be extended by Agent, or such requirement is waived by Agent, in each case in its sole discretion)), deliver a Mortgage, and, to the extent customary in the relevant jurisdiction, title insurance policies, environmental reports, flood hazard determinations, flood insurance (if required), surveys and other documents reasonably requested by Agent as reasonably necessary in connection with granting and perfecting a first priority Lien, other than Permitted Liens, on such Material Real Property in favor of Agent, for the ratable benefit of the Secured Parties, all in form and substance acceptable to Agent. The parties hereto agree that Credit Parties and their respective Subsidiaries shall not be required at any time to execute and deliver a Mortgage granting Agent a Lien on the Mississauga Property or the Playa Vista Property. Notwithstanding the foregoing, Agent shall not enter into any Mortgage in respect of any improved Material Real Property acquired by the Borrower or any other Credit Party after the Restatement Effective Date until the earlier of (1) the date that occurs fifteen (15) Business Days after delivery to the Lenders (which may be delivered electronically and which the Agent shall deliver as promptly as reasonably practicable after receipt from the applicable Credit Party) of the following documents in respect of such improved Material Real Property: (A) a completed flood hazard determination from a third party vendor; (B) if such real property has any improvements that are located in a “special flood hazard area”, (I) a notification to the Borrower (or applicable Credit Party) of that fact and (if applicable) notification to the Borrower (or applicable Credit Party) that flood insurance coverage is not available and (II) evidence of the receipt by the Borrower (or applicable Credit Party) of such notice; and (C) if such notice is required to be provided to the Borrower (or applicable Credit Party) and flood insurance is available in the community in which such real property is located, evidence of required flood insurance and (2) Agent shall have received written confirmation from each of the Lenders that flood insurance due diligence and flood insurance compliance has been completed by the Lenders (such written confirmation not to be unreasonably conditioned, withheld or delayed); provided, however, that so long as the Credit Parties have otherwise satisfied the requirements of this Section 7.12(c) but for the requirements of this sentence, the Credit Party’s obligations under this Section 7.12(c) to grant a Mortgage with respect to any improved Material Real Property within the 90-day time period described herein shall be extended for so long as is required to ensure compliance with the requirements of this sentence.

- (d) If any Lender determines, acting reasonably, that any applicable law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to hold or benefit from a Lien over real property, such Lender may notify Agent and disclaim any benefit of such Lien to the extent of such illegality; provided, that such determination or disclaimer shall not invalidate or render unenforceable such Lien for the benefit of Agent, any other Lender or Secured Party.

### **7.13 Grant of Equitable Mortgage by IMAX Barbados**

In the case of IMAX Barbados, at all times:

- (a) IMAX Barbados shall own not less than 51% of all of the issued and outstanding Equity Interests of IMAX Cayman;

- (b) IMAX Barbados shall control IMAX Cayman (and, for purposes of this clause (b), “control” means the possession of the power to direct or cause the direction of the management or policies of IMAX Cayman and elect a majority of the board of directors of, or Persons performing similar functions in respect of, IMAX Cayman);
- (c) IMAX Barbados shall mortgage or pledge in favor of Agent (and deliver (but only to the extent such original Equity Interests are in certificated form) to Agent such original Equity Interests or other certificates and stock or other transfer powers evidencing the grant of a mortgage or pledge over) not less than 51% of all of the issued and outstanding Equity Interests of IMAX Cayman; and
- (d) IMAX Barbados shall deliver to Agent such other agreements and make such registrations and filings in connection therewith, in each case, as Agent shall deem necessary or desirable to preserve, protect or perfect such first priority Lien.

From time to time, Borrower may request that Agent release Agent’s mortgage or pledge and Lien in the Equity Interests of IMAX Cayman and Agent shall so release (without requiring any consent or approval of any Secured Party) if Agent is satisfied that its remaining mortgage or pledge and Lien in the Equity Interests of IMAX Cayman complies with Section 7.13(a) through (d) above.

#### **7.14Accounts**

During the Designated Period, cause each Credit Party organized under the laws of United States or Canada (or any state, province or political subdivision thereof) to (a) maintain any and all Control Agreements previously entered into, or entered into pursuant to this Section, in full force and effect, (b) promptly notify the Agent in writing of (i) any new Deposit Accounts or Securities Accounts (other than Excluded Accounts) owned by it and located in the United States or Canada or (ii) any of its Deposit Accounts or Securities Accounts located in the United States or Canada that ceases to be an Excluded Account, and (c) within thirty (30) days of the receipt of a notice described in Section 7.14(b) (or such later date as agreed to by the Agent in its sole discretion) in the case of any Deposit Accounts or Securities Accounts opened, or which cease to be Excluded Accounts, prior to the termination of the Designated Period, cause such Deposit Accounts or Securities Accounts to be subject to a Control Agreement; provided that upon termination of the Designated Period, upon the written request of the Borrower, the Agent shall promptly provide to the Borrower and such depository bank or securities intermediary, as the case may be, notices of termination as required by such Control Agreements to terminate such Control Agreements.

#### **7.15Flood Insurance Matters.**

The parties hereto acknowledge and agree that, if there is any improved Material Real Property subject to a Mortgage, any increase, extension, or renewal of any of the Loans or Commitments (including any Incremental Term Loan and any Incremental Revolving Loan Increase, but excluding (a) any continuation or conversion of borrowings, (b) the making of any Revolving Loans or Swingline Loans or (c) the issuance, renewal or extension of Letter of Credit Accommodations) shall be subject to (and conditioned upon): (i) the prior delivery of all flood zone determination certifications, acknowledgements and evidence of flood insurance and other flood-related documentation with respect to such improved Material Real Property subject to a Mortgage reasonably sufficient to evidence



compliance with Flood Insurance Laws and (ii) the earlier to occur of (A) the date that occurs fifteen (15) Business Days after delivery to the Lenders of the documentation set forth in clause (i) of this Section to the Lenders (which may be delivered electronically and which the Agent shall deliver as promptly as reasonably practicable after receipt from the applicable Credit Party) or (B) Agent's receipt of written confirmation from each of the Lenders that flood insurance due diligence and flood insurance compliance has been completed by such Lender (such written confirmation not to be unreasonably withheld, conditioned or delayed) prior to the expiration of such thirty (30) day period; provided, however, that so long as the Credit Parties have otherwise satisfied the requirements of Section 7.12(c) but for the requirements of this Section 7.15, the Credit Parties' obligations under Section 7.12(c) to grant a Mortgage with respect to any improved Material Real Property within the 90-day time period described therein shall be extended for so long as is required to ensure compliance with the requirements of this Section 7.15.

#### **7.16 Post-Closing Matters.**

Execute and deliver the documents, take the actions and complete the tasks set forth on Schedule 7.16, in each case within the applicable corresponding time limits specified on such schedule (as such times may be extended by the Agent).

### **ARTICLE 8 NEGATIVE COVENANTS**

Until all of the non-contingent Obligations have been paid and satisfied in full, all Letter of Credit Accommodations have been terminated or expired (or been cash collateralized or backstopped on terms satisfactory to Agent) and the Commitments terminated, the Credit Parties will not, and will not permit any of their respective Subsidiaries to:

#### **8.1 Merger, Sale of Assets, Dissolution, Etc.**

- (a) Directly or indirectly: (i) merge, amalgamate or consolidate with any other Person or permit any other Person to merge, amalgamate or consolidate with it, (ii) sell, assign, lease, transfer, abandon or otherwise dispose of any Collateral, assets or property (including by way of a sale-leaseback or a division) to any other Person (each an "Asset Sale"), (iii) wind up, liquidate or dissolve or (iv) agree to do any of the foregoing.
- (b) Notwithstanding Section 8.1(a) hereof and provided that an Event of Default does not then exist and would not occur as a result thereof (determined upon the earlier to occur of (A) the execution of definitive documentation with respect to such transaction and (B) such transaction), each Credit Party or any Subsidiary thereof shall be permitted to:
  - (i) sell, assign, lease, transfer or otherwise dispose assets or property for fair market value (as determined in good faith by Borrower) so long as (A) such assignment, lease transfer or disposal does not comprise all or substantially all of the assets and properties of Borrower and its Subsidiaries and (B) at least 75% of the consideration for any such sale in excess of \$10,000,000 shall consist of cash and Cash Equivalents;
  - (ii) disposals of obsolete, worn out or surplus property;

- (iii) the leasing, occupancy agreements or subleasing of property in the ordinary course of business and which do not materially interfere with the business of Borrower or its Subsidiaries;
- (iv) transfers of property subject to condemnation, takings or casualty events, including transfers of condemned property as a result of the exercise of “eminent domain” or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;
- (v) the transfer for at least fair value of property (including Equity Interests of Subsidiaries) to another Person in connection with a joint venture arrangement with respect to the transferred property; provided that such transfer is permitted under Section 8.4;
- (vi) [reserved];
- (vii) the sale of cash or Cash Equivalents in the ordinary course of business;
- (viii) dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between the joint venture parties set forth in, joint venture arrangements and similar binding arrangements;
- (ix) non-exclusive licenses, sublicenses or cross-licenses of intellectual property or other general intangibles and exclusive licenses, sublicenses or cross-licenses of intellectual property or other IP Rights or other general intangibles, in each case, in the ordinary course of business of Borrower and its Subsidiaries;
- (x) dispositions of property between or among Borrower and/or its Subsidiaries as a substantially concurrent interim disposition in connection with a disposition otherwise permitted pursuant to clauses (i) through (viii) above and (xiv) below;
- (xi) merge, amalgamate or consolidate with an Affiliate; provided that, in the case of any such transaction involving a Credit Party, the surviving, amalgamated or consolidated Person shall continue to be a Credit Party under the Financing Agreements;
- (xii) in the case of single purpose Subsidiaries formed or acquired for the purpose of entering into the joint ventures and the third party productions permitted pursuant to Section 8.4(d) and 8.4(h) hereof, any such Subsidiary which is a joint venture or third party production may issue Equity Interests in such Subsidiary to the other parties thereto in the ordinary course of business;
- (xiii) transfer all of its property to another Credit Party prior to such first Credit Party’s or Subsidiary’s winding-up, liquidation or dissolution; provided that such transferred property becomes subject to a first priority Lien in favor of Agent (subject to Permitted Liens);

- (xiv) sell, assign, lease, transfer, or otherwise dispose of property (including Equity Interests) to any Credit Party; provided that such sold, assigned, leased, transferred or disposed property is subject to all then existing first priority Liens of Agent (subject to Permitted Liens);
- (xv) issue Equity Interests of IMAX Cayman;
- (xvi) Permitted Investments made in accordance with Section 8.4 and Restricted Payments made in accordance with Section 8.5;
- (xvii) [reserved];
- (xviii) in the case of any Subsidiary of Borrower (other than a Guarantor, IMAX China Multimedia, IMAX China Theatre or IMAX China HK), issue Equity Interests to employees, directors, consultants and other Persons in the ordinary course of business;
- (xix) sell equipment at fair market value in the ordinary course of business;
- (xx) mergers, amalgamations or consolidations among Subsidiaries that are not Credit Parties; and
- (xxi) a sale leaseback with respect to the Playa Vista Property.

Notwithstanding anything to the contrary herein, during the Designated Period, the Borrower and its Subsidiaries shall not sell, assign, lease, transfer, abandon or otherwise dispose of (including by way of a sale-leaseback or a division) any Collateral, assets or property, other than the Playa Vista Property, to any other Person pursuant to clause (b)(i) of this Section 8.1 if the aggregate consideration for all such sales would exceed \$25,000,000.

For the avoidance of doubt, nothing in this Section 8.1 shall limit or restrict (a) the sale of any Permitted Convertible Debt by the Borrower, (b) the sale of any Permitted Warrant Transaction by the Borrower, (c) the purchase of any Permitted Bond Hedge Transaction nor (d) the performance by Borrower of its obligations under any Permitted Convertible Debt, any Permitted Warrant Transaction or any Permitted Bond Hedge Transaction.

## 8.2 Liens

Create, incur, assume or suffer to exist any Lien on any of its assets or properties (other than the Playa Vista Property), including the Collateral and the Mississauga Property except:

- (a) Liens in favor of Agent to secure the Obligations;
- (b) Liens securing the payment of Taxes, either not yet overdue or the validity of which are being contested in good faith by appropriate proceedings diligently pursued and available to such Credit Party or Subsidiary;

- (c) non-consensual statutory Liens (other than Liens securing the payment of taxes) arising in the ordinary course of its business to the extent: (i) such Liens secure indebtedness which is not overdue or (ii) such Liens secure indebtedness relating to claims or liabilities which are fully insured and being defended at the sole cost and expense and at the sole risk of the insurer or being contested in good faith by appropriate proceedings diligently pursued and available to it, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books;
- (d) zoning restrictions, rights-of-way, easements, licenses, covenants and other restrictions affecting the use of real property which do not interfere in any material respect with the use of such real property or ordinary conduct of its business as presently conducted thereon or materially impair the value of the real property which may be subject thereto;
- (e) purchase money security interests and mortgages (including capital or finance leases) to secure Permitted Debt incurred pursuant to Section 8.3(c) and so long as such security interests and mortgages do not apply to any property of a Credit Party or Subsidiary thereof other than the acquired property;
- (f) Liens set forth on Schedule 8.2 hereto and any modifications, replacements, renewals or extensions thereof; provided that the Lien does not extend to any additional property other than after-acquired property that is affixed or incorporated into the property covered by such Lien or proceeds and products thereof;
- (g) Liens securing performance of bids, contracts, statutory obligations, surety, performance and appeal bonds and other like obligations incurred in the ordinary course of business;
- (h) pledges or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security legislation;
- (i) Liens securing Permitted Debt in Section 8.3(n) so long as (i) after giving effect to the incurrence thereof Borrower is in *pro forma* compliance with the Senior Secured Net Leverage Ratio in Section 9.1 as demonstrated in writing by Borrower to Agent prior to any such incurrence being made, and (ii) such Liens were in existence prior to the date of such acquisition, merger, amalgamation or consolidation and were not incurred in anticipation thereof and do not extend to assets other than those acquired;
- (j) Liens granted over the assets and properties of the Playa Vista Borrower to secure the Permitted Debt in Section 8.3(g);
- (k) [reserved];
- (l) Liens granted over the assets and properties of IMAX China Multimedia and/or IMAX China HK to secure the Permitted Debt in Section 8.3(i);
- (m) Liens in favor of EDC over deposits of collateral given by Borrower in favor of EDC pursuant to the terms of the EDC Indemnity Agreement; provided that the Liens and

interest of EDC in such collateral shall at all times be subject to and subordinate to any and all interests and Liens of Agent in such collateral;

- (n) [reserved];
- (o) Liens securing the Incremental Loans and/or Incremental Equivalent Debt so long as such Liens are only on the Collateral and, such Liens are secured either (i) on a *pari passu* basis with respect to the Obligations, or (ii) on a junior basis with respect to the Obligations, and, additionally, in the case of all Liens securing Incremental Equivalent Debt, such Liens shall be subject to an Intercreditor Agreement, which such Intercreditor Agreement shall provide that any Liens securing such Incremental Equivalent Debt shall rank no higher in priority than the Liens securing the Obligations;
- (p) Liens securing Permitted Debt not to exceed in the aggregate at any time, the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets; provided that, if such Liens are on the Collateral, such Liens shall be subject to an Intercreditor Agreement;
- (q) Liens securing Permitted Debt in Section 8.3(q);
- (r) [reserved];
- (s) any interest or title of a lessor or sublessor under any lease or sublease permitted hereunder;
- (t) (i) Liens solely on any cash earnest money deposits made by Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder or (ii) Liens on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in a Permitted Investment to be applied against the purchase price for such Permitted Investment;
- (u) purported Liens evidenced by the filing of precautionary PPSA and/or UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;
- (v) Liens in favor of customs and revenue authorities arising as a matter of Applicable Law to secure payment of customs duties in connection with the importation of goods;
- (w) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property and other land use restrictions, including, site plan agreements, development agreements and contract zoning agreements;
- (x) licenses of IP Rights granted by Borrower or any of its Subsidiaries in the ordinary course of business and not interfering in any respect with the ordinary conduct of the business of Borrower or such Subsidiary;

- (y) registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements;
- (z) deposits made or other security provided in the ordinary course of business and the proceeds thereof to secure liability to insurance carriers for insurance premiums or under self-insurance arrangements in respect of such obligations;
- (aa) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other Persons not given in connection with the incurrence of Debt; (ii) relating to pooled deposit or sweep accounts of any Credit Party to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Credit Parties; or (iii) relating to purchase orders and other agreements entered into with customers of any Credit Party in the ordinary course of business; and
- (bb) Liens arising solely by virtue of any statutory or common law provision or customary business provision relating to banker's liens, rights of set off or similar rights.

Notwithstanding anything to the contrary herein, during the Designated Period, (A) the Borrower and its Subsidiaries shall not create, incur or assume (1) Liens securing Permitted Debt pursuant to clause (p) above in an aggregate amount in excess of \$20,000,000 and (2) Liens under clause (i) above unless after giving effect to the creation, incurrence or assumption thereof the Senior Secured Net Leverage Ratio does not exceed 3:25:1.00 as demonstrated in writing by Borrower to Agent prior to any such creation, incurrence or assumption being made and (B) any Liens created, incurred or assumed pursuant to Section 8.2(q) shall be limited solely to the assets of the applicable Subsidiary that is the primary obligor of the Debt and do not extend to the assets or property of the Borrower or any other Credit Party. For the avoidance of doubt no Liens in existence on the First Amendment Effective Date shall be deemed to have been created incurred or assumed during the Designated Period for purposes of determining the amount of the adjusted baskets and thresholds that apply during the Designated Period pursuant to this paragraph.

### **8.3Debt**

Incur, create, assume, become or be liable in any manner with respect to, or permit to exist, any Debt except:

- (a) the Obligations including obligations, liabilities and indebtedness under or in connection with Secured Hedge Agreements and the Secured Cash Management Agreements;
- (b) trade obligations and normal accruals in the ordinary course of business not yet due and payable, or with respect to which such Credit Party is contesting in good faith the amount or validity thereof by appropriate proceedings diligently pursued and available to it, and with respect to which adequate reserves have been set aside on its books;
- (c) purchase money Debt (including Capital Lease Obligations and any refinancings, extensions, renewals or replacements of such Debt) not to exceed at any time, the greater of (i) \$25,000,000 and (ii) three percent (3%) of Consolidated Total Assets, provided that

such Debt does not exceed the cost of the acquired property *plus*, in the case of any such refinancings, extensions, renewals or replacements of such Debt, any accrued and unpaid interest thereon being refinanced, extended, renewed or replaced plus any other reasonable amounts paid and reasonable fees and expenses incurred in connection with such refinancing, extension, renewal or replacement;

- (d) the Debt set forth on Schedule 8.3(d) hereto, including any refinancings, extensions, renewals or replacements of such Debt; provided that any such refinancings extensions, renewals or replacements of such Debt shall not (i) include Debt of an obligor that was not an obligor with respect to the Debt being refinanced, extended, renewed or replaced or (ii) exceed in a principal amount the Debt and any accrued and unpaid interest thereon being refinanced, extended, renewed or replaced *plus* any other reasonable amounts paid and reasonable fees and expenses incurred in connection with such refinancing, extension, renewal replacement;
- (e) the Debt incurred pursuant to the BMO and National Bank Facilities; provided that the Debt of Borrower under (i) the LC Facility shall not exceed \$5,000,000 and (ii) the Mastercard Facility shall not exceed CDN\$175,000, in each case, as may be replaced by Borrower;
- (f) the Debt and indemnity obligations incurred pursuant to the EDC Indemnity Agreement; provided that such Debt and indemnity obligations shall relate solely to Indemnity Bonding Products (as defined in the EDC Indemnity Agreement) issued by EDC in support of the LC Facility and not to exceed \$10,000,000 in the aggregate;
- (g) Debt of the Playa Vista Borrower;
- (h) (i) unsecured Debt (including Permitted Convertible Debt) of the Borrower or any other Credit Party incurred during the Designated Period in an aggregate principal amount of up to \$290,000,000; provided that (A) no Default or Event of Default shall have occurred and be continuing or would be caused by the incurrence of such Debt; (B) Agent and Lenders shall have received from Borrower a Compliance Certificate demonstrating, in form and substance reasonably satisfactory to Agent, that Borrower is in compliance with the minimum Liquidity covenant pursuant to Section 9.2, to be based on the financial statements most recently delivered pursuant to Section 7.6(a) both before and after giving effect (on a Pro Forma Basis) to any such unsecured Debt; (C) such Debt does not mature, require any scheduled payment of principal, require any mandatory payment, redemption or repurchase prior to the date that is 91 days after the latest of the maturity dates of all Loans or Commitments in effect at the time of issuance of such Debt; provided that neither (1) any provision of such Debt requiring an offer to purchase Permitted Convertible Debt as a result of a change of control, delisting or asset sale or other fundamental change nor (2) any early conversion or exchange of (or the ability to convert or exchange early) any Permitted Convertible Debt in accordance with the terms of the documentation governing such Permitted Convertible Debt shall violate this clause (i)(C); provided further that it is acknowledged and agreed that with respect to the Borrower's 0.500% Convertible Senior Notes due 2026, which were issued on March 19, 2021, the applicable latest maturity date of the Loans and Commitments for purposes of this clause

(C) is June 28, 2023 and (D) such Debt does not include any financial performance “maintenance” covenants (whether stated as a covenant, default or otherwise, although “incurrence-based” financial tests may be included) or cross-defaults (but may include cross-payment defaults and cross-defaults at the final stated maturity thereof and cross-acceleration); and (ii) any Permitted Refinancings in respect of any Debt incurred under subclause (i) of this clause (h);

- (i) the Debt of IMAX Cayman, IMAX China Multimedia and/or IMAX China HK with respect to the IMAX China Credit Facility in an aggregate principal amount not to exceed \$10,000,000 and the Debt of Borrower with respect to the IMAX China Guarantee; provided that the amount guaranteed by Borrower pursuant to the IMAX China Guarantee shall count against the \$100,000,000 basket amount in Section 8.4(h);
- (j) intercompany Debt among Borrower and any Subsidiary to the extent permitted by Section 8.4(j);
- (k) [reserved];
- (l) Debt in an aggregate principal amount not to exceed, the greater of (i) \$100,000,000 and (ii) twelve percent (12%) of Consolidated Total Assets at the time of such incurrence;
- (m) (i) Debt in any amount so long as immediately after giving effect to the incurrence thereof the Total Net Leverage Ratio is less than or equal to 4.25:1.00 (the “**Ratio Debt Test**” and such Debt, “**Ratio Debt**”) as demonstrated in writing (including with calculations of *pro forma* compliance with the Total Net Leverage Ratio) by Borrower to Agent prior to any such incurrence being made; provided that Debt of a Subsidiary of Borrower (other than Credit Parties) permitted to be incurred pursuant to this clause (m), shall not exceed in the aggregate the greater of (A) \$50,000,000 and (B) six percent (6%) of Consolidated Total Assets and (ii) Permitted Refinancings of Ratio Debt subject to this clause (m);
- (n) the Debt of a Subsidiary acquired after the Restatement Effective Date or a Person merged into, amalgamated or consolidated with Borrower or any Subsidiary thereof after the Restatement Effective Date and Debt assumed in connection with any Permitted Investment and where, in each case, such acquisition, merger, amalgamation or consolidation is permitted by this Agreement, but only to the extent that such Debt (i) existed at the time such Person became a Subsidiary or the assets subject to such Debt were acquired, (ii) was not incurred in contemplation thereof and (iii) does not exceed in the aggregate the greater of (A) \$25,000,000 and (B) three percent (3%) of Consolidated Total Assets;
- (o) (i) Debt incurred to finance any Permitted Investment in any amount so long as immediately after giving effect to the incurrence thereof (A) Borrower would be permitted to incur at least \$1.00 of additional Debt pursuant to the Ratio Debt Test or (B) the Total Leverage Ratio would be less than immediately prior to such Permitted Investment (“**Ratio Acquisitions Debt**”) as demonstrated in writing (including with calculations of *pro forma* compliance with the foregoing Ratio Debt Test and Total



Leverage Ratio set forth in this clause) by Borrower to Agent prior to any such incurrence being made; provided that Debt of a Subsidiary of Borrower (other than Credit Parties) permitted to be incurred pursuant to this clause (o) shall not exceed in the aggregate the greater of (A) \$50,000,000 and (B) six percent (6%) of Consolidated Total Assets and (ii) Permitted Refinancings of Ratio Acquisitions Debt subject to clause (o);

- (p) Debt incurred to finance any Permitted Investment not to exceed in the aggregate, the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets;
- (q) Debt of a Subsidiary of Borrower (other than a Credit Party) in an aggregate principal amount not to exceed the greater of (i) \$50,000,000 and (ii) six percent (6%) of Consolidated Total Assets;
- (r) Debt of joint ventures of Borrower and its Subsidiaries (or guarantees with respect thereto) not to exceed in the aggregate the greater of (i) \$75,000,000 and (ii) nine percent (9%) of Consolidated Total Assets;
- (s) Debt pursuant to financial guarantees and letters of credit to support Borrower's operations in China and other financial guarantees in an aggregate amount to exceed \$25,000,000 (less all amounts incurred pursuant to Section 8.3(i));
- (t) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees, lessors, licensees and sub-licensees of Credit Parties and their Subsidiaries;
- (u) any guarantee by any Credit Party or a Subsidiary thereof of Debt or other obligations of any other Credit Party or any of its Subsidiaries so long as the incurrence of such Debt or other obligations by such Credit Party or such Subsidiary is permitted under the terms of this Agreement;
- (v) [reserved];
- (w) Debt pursuant to the Hong Kong JV Guarantee (which shall count against the \$100,000,000 debt basket amount in Section 8.3(l));
- (x) [reserved];
- (y) Debt in the form of secured or unsecured term notes and/or term loans (and/or commitments in respect thereof) issued or incurred by Borrower in lieu of Incremental Term Loans (such term notes or term loans, "**Incremental Equivalent Debt**"); provided that, (i) the aggregate principal amount of such Incremental Equivalent Debt issued or incurred shall not exceed the aggregate principal amount of Incremental Loans permitted to be incurred under Section 2.6(a), (ii) any Incremental Equivalent Debt shall be subject to satisfaction of the requirements of subclauses (i) and (ii) of Section 2.6(d), with all references to "Incremental Loan Commitments" and "Incremental Loan" being deemed to refer to "Incremental Equivalent Debt" and all references therein to "Increased Amount Date" being deemed to refer to the date of incurrence of such Incremental Equivalent Debt, (iii) any Incremental Equivalent Debt that is secured shall be secured only by the Collateral and on a *pari passu* or junior basis with the Collateral securing the Obligations

and subject to an Intercreditor Agreement, which such Intercreditor Agreement shall provide that any Liens securing such Incremental Equivalent Debt shall rank no higher in priority than the Liens securing the Obligations, (iv) the incurrence of such Incremental Equivalent Debt shall be subject to the terms and conditions applicable to Incremental Term Loans set forth in Section 2.6(d)(vii) (other than clause (B)) as if set forth in this Section 8.3(y) *mutatis mutandis*, (v) no Incremental Equivalent Debt may be guaranteed by any Person that is not a Credit Party or secured by any assets other than the Collateral, and (vi) prior to the incurrence of such Incremental Equivalent Debt, Borrower shall have delivered to Agent drafts of the documentation relating thereto (provided that at its option, Borrower may deliver a certificate to Agent in good faith at least five (5) Business Days prior to the incurrence of such Debt, together with a reasonably detailed description of the material terms and conditions of such Debt or drafts of the documentation relating thereto, stating that Borrower has determined in good faith that such terms and conditions satisfy the requirement set out in this clause (y), and such certificate shall be conclusive evidence that such terms and conditions satisfy such requirement unless Agent provides notice to Borrower of its objection during such five (5) Business Day period (including a reasonable description of the basis upon which it objects));

- (z) Debt incurred by Borrower or any of its Subsidiaries arising from agreements providing for indemnification, earn-outs, adjustment of purchase price or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of Borrower or any such Subsidiary pursuant to such agreements, in connection with Permitted Investments or permitted dispositions of any business, assets or Subsidiary of Borrower, in each case, to the extent not constituting debt for borrowed money;
- (aa) Debt of Borrower or any of its Subsidiaries which may be deemed to exist pursuant to any worker's compensation claims, self-insurance obligations, guaranties, performance, surety, statutory, appeal, custom bonds or similar obligations incurred in the ordinary course of business;
- (bb) Debt of Borrower or any of its Subsidiaries in respect of cash management, cash pooling arrangements and related activities to manage cash balances of Borrower and its Subsidiaries and joint ventures including treasury, depository, overdraft, credit, purchasing or debit card, electronic funds transfer and other cash management arrangements, netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs or otherwise in connection with deposit accounts or securities accounts incurred in the ordinary course of business;
- (cc) Debt in respect of Hedge Agreements incurred in the ordinary course of business and not for speculative purposes; and
- (dd) Debt incurred by a Subsidiary in connection with bankers' acceptances, discounted bills of exchange or the discounting or factoring of receivables for credit management purposes, in each case incurred or undertaken in the ordinary course of business on arm's-length commercial terms.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.3 shall be further limited as follows: (A) the Borrower shall not, and shall not permit any of its Subsidiaries to incur, create, assume, or become liable in any manner with respect to any Debt pursuant to clauses (m), (o), (p), and (r) above, (B) the Borrower shall not, and shall not permit any of its Subsidiaries to incur, create, assume, or become liable in any manner with respect to any Debt (1) pursuant to clause (c) above in an aggregate amount for all such Debt not in excess of \$15,000,000, (2) pursuant to clause (l) above in an aggregate amount for all such Debt not in excess of (x) \$50,000,000 plus (y) to the extent that the \$50,000,000 in clause (B)(2)(x) of this sentence has been fully utilized, to the extent constituting Debt, up to an additional \$25,000,000 in the form of, or to fund, substantially concurrent Investments permitted under Section 8.4(h) as modified by the last sentence of Section 8.4, and (3) pursuant to clause (q) in an aggregate amount for all such Debt not to exceed \$10,000,000 of Debt of IMAX China HK and/or IMAX HK and \$30,000,000 of Debt of IMAX China Multimedia and/or IMAX China Theatre and (C) any Incremental Equivalent Debt in the form of a pari passu secured term loan shall be subject to Section 2.6(d)(vii)(B), as if references therein to “Incremental Term Loan” referred to such Incremental Equivalent Debt; provided that the Borrower may guarantee any Debt of the Playa Vista Borrower. For the avoidance of doubt no Debt in existence on the First Amendment Effective Date shall be deemed to have been incurred, created or assumed, nor shall the Borrower or any of its Subsidiaries be deemed to have become liable for such Debt, during the Designated Period for purposes of determining amount of the adjusted baskets and thresholds that apply during the Designated Period pursuant this paragraph.

#### **8.4 Investments**

Directly or indirectly, make any loans or advance money or property to any person, or invest in (by capital contribution, dividend or otherwise) or purchase or repurchase the Equity Interests or Debt or all or a substantial part of the assets or property of any person or consummate any Acquisition, or agree to do any of the foregoing (each, an “**Investment**”), except for:

- (a) the endorsement of instruments for collection or deposit in the ordinary course of business;
- (b) investments in cash and Cash Equivalents;
- (c) equity Investments owned as of the Restatement Effective Date in any Subsidiary and other Investments outstanding on the Restatement Effective Date, in each case, set forth on Schedule 8.4 hereto;
- (d) investments in joint ventures with strategic partners for the purpose of advancing Borrower’s business; provided that such investments in such joint ventures, whether direct or indirect, shall not, at any time and in the aggregate exceed the greater of (A) \$75,000,000 and (B) nine percent (9%) of Consolidated Total Assets and such investments shall not be made if an Event of Default exists and is continuing or would occur as result thereof (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to such investment and (y) such investment);

- (e) loans or advances of money to affiliates in the ordinary course of Borrower's business with the proceeds of issuance of Equity Interests (other than Disqualified Equity Interests) of Borrower, provided that such proceeds are used in the ordinary course of business and shall not, for further clarity, be subject to any other restrictions on use contained herein;
- (f) payments to employees in connection with the repurchase of phantom stock (including stock appreciation rights) in the ordinary course of business; provided that such payments with respect to the repurchase of phantom stock (including stock appreciation rights) not in existence on the Restatement Effective Date shall not exceed, together with amounts paid under Section 8.5(c), \$1,000,000 *per annum*;
- (g) payments to counterparties under or in connection with Hedge Agreements;
- (h) other Investments made after the Restatement Effective Date in an aggregate principal amount not to exceed the greater of (i) \$100,000,000 and (ii) twelve percent (12%) of Consolidated Total Assets so long as no Event of Default exists and is continuing or would occur as a result thereof (determined upon the earlier to occur of (x) the execution of definitive documentation with respect to such Investment and (y) such Investment);
- (i) loans or advances of money from a Credit Party to another Credit Party whose assets and properties are subject to the first priority Liens of Agent (subject to Permitted Liens);
- (j) (i) Borrower and any Subsidiary may make intercompany loans to and other investments in Credit Parties, (ii) any Subsidiary (other than a Credit Party) may make intercompany loans to and other investments in any Credit Party or any Subsidiary so long as in the case of such intercompany loans to Credit Parties, all payment obligations of the respective Credit Parties are subordinated to their Obligations under the Financing Agreements on terms reasonably satisfactory to Agent, (iii) the Credit Parties may make intercompany loans to, and other Investments in, Subsidiaries that are not Credit Parties so long as the aggregate amount of outstanding loans and other Investments made pursuant to this subclause (iii) does not exceed the greater of \$50,000,000 and six percent (6%) of Consolidated Total Assets and the proceeds were incurred as Permitted Debt pursuant to Section 8.3(q), (iv) any Subsidiary that is not a Credit Party may make intercompany loans to, and other Investments in, any other Subsidiary that is also not a Credit Party and (v) Credit Parties may make intercompany loans and other Investments in any Subsidiary that is not a Credit Party so long as such intercompany loans and other Investment is part of a series of simultaneous intercompany loans and other Investments by Subsidiaries in other Subsidiaries that simultaneously results in the proceeds of the initial intercompany loan and other Investment being made to or invested in one or more Credit Parties;
- (k) [reserved];
- (l) [reserved];
- (m) the purchase of any Permitted Bond Hedge Transaction or Permitted Warrant Transaction by the Borrower or any of its Subsidiaries and the performance of its obligations thereunder;

- (n) the IMAX Film Fund Put; provided that the fair market value to be paid by Borrower or its Subsidiary for pictures under the IMAX Film Fund Put shall be the fair market value thereof determined in accordance with the terms in the IMAX Film Fund Put, including that any appraiser determining fair market value in connection therewith shall be an investment bank or other entity experienced in determining the value of film assets;
- (o) the \$4,000,000 preferred share investment by IMAX HK in IMAX China HK;
- (p) Investments in any amount so long as (i) immediately after giving effect to such Investment the Total Net Leverage Ratio is equal to or less than 2:75:1.00 as demonstrated in writing (including with calculations of *pro forma* compliance with the Total Net Leverage Ratio) by Borrower to Agent prior to any such Investment being made and (ii) no Event of Default exists and is continuing or would occur as a result thereof (determined upon the earlier to occur of (A) the execution of definitive documentation with respect to such Investment and (B) the making of such Investment);
- (q) loans to employees not to exceed in the aggregate the greater of (i) \$2,500,000 and (ii) one percent (1%) of Consolidated Total Assets and so long as no Event of Default exists and is continuing or would occur as a result thereof;
- (r) Acquisitions of any single purpose Subsidiaries for the purpose of entering into the joint ventures and the third party productions permitted pursuant to Section 8.4(d) and (h) hereof;
- (s) Deposits, prepayments and other credits to suppliers made in the ordinary course of business consistent with the past practices of Borrower and its Subsidiaries;
- (t) extensions of trade credit in the ordinary course of business;
- (u) Investments of any Person in existence at the time such Person becomes a Subsidiary; provided that such Investment was not created in anticipation of such Person becoming a Subsidiary;
- (v) Investments made in the ordinary course and resulting from pledges and deposits referred to in Section 8.2(h); and
- (w) Investments consisting of purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of intellectual property, in each case in the ordinary course of business.

Any Future Permitted Transaction by Borrower and any investment, license, purchase or other transaction reasonably related thereto and in furtherance thereof shall be permitted hereunder and the amount of any such investment, license, purchase or other transaction shall not be included in (or count against) any of the foregoing basket amounts described in this Section 8.4.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.4 shall be further limited as follows: (A) the amount of Investments permitted pursuant to clause (d) shall be reduced to \$0, (B) no Investments may be made pursuant to clauses (p)

and (r) above, (C) the amount of Investments permitted pursuant to clauses (h) and (j)(iii) shall not exceed (1) with respect to clause (h) the sum of (x) \$50,000,000 plus (y) to the extent that the \$50,000,000 in clause (C)(1)(x) of this sentence has been fully utilized, up to an additional \$25,000,000 so long as at the time of making of any Investment utilizing the amount under this clause (C)(1)(y), no Default of Event of Default has occurred and is continuing or would result therefrom and Liquidity (as determined based on cash and Cash Equivalents as of the most recent month end for which financial statements have been delivered pursuant to Section 7.6 and after giving effect to such Investment and any Revolving Loan Exposure incurred in connection therewith) shall be at least \$150,000,000 as certified in a certificate, in form and substance reasonably satisfactory to the Agent and duly executed by an authorized officer of the Borrower and (2) with respect to clause (j)(iii), \$0 other than Investments in the form of the intercompany Debt permitted under Section 8.3(q) and capitalization of the Borrower's interest in the Playa Vista Borrower, (D) the Borrower's and its Subsidiaries' Investments existing as of the First Amendment Effective Date in (1) Maoyan Entertainment, in an aggregate amount not to exceed the amount set forth on the most recent Compliance Certificate delivered prior to the First Amendment Effective Date and (2) Dreamscape Immersive Inc., in an aggregate amount not to exceed \$1,000,000, shall each be deemed permitted pursuant to clause (h) without any reduction of the amount described in clause (C)(1) of this sentence.

## 8.5 Restricted Payments

Directly or indirectly, declare or pay any dividends on account of any of its Equity Interests now or hereafter outstanding, or redeem, retire, defease, purchase or otherwise acquire any of its Equity Interests, or make any other distribution (by reduction of capital or otherwise) in respect of any such Equity Interests or prepay, repay, redeem, purchase, defease or acquire for value (including (x) by way of depositing with any trustee with respect thereto money or securities before due for the purpose of paying when due and (y) at the maturity thereof) any Permitted Convertible Debt or other unsecured Debt incurred pursuant to Section 8.3(h) (each, a "**Restricted Payment**") with the exception that:

- (a) wholly-owned Subsidiaries of a Subsidiary or the Borrower may pay cash dividends or distributions to their respective shareholders;
- (b) non wholly-owned Subsidiaries of a Subsidiary or the Borrower may pay cash dividends or distributions to its shareholders provided each shareholder receives its ratable share of such dividends or distributions;
- (c) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests which are held by any current, future or former officers, directors or employees of such Person not to exceed, together with amounts paid under Section 8.4(f), \$1,000,000 *per annum*;
- (d) Credit Parties and their Subsidiaries may make Restricted Payments if made by way of Qualified Equity Interests only;
- (e) Borrower may make Restricted Payments in any amount so long as (i) immediately after giving effect thereto the Total Net Leverage Ratio is equal to or less than 2.75:1.00 and (ii) in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;

- (f) the Borrower (or any Credit Party that is an obligor under such Permitted Convertible Debt) may (i) make payments of interest with respect to any Permitted Convertible Debt or the payment upon maturity (or otherwise required pursuant to customary prepayment, redemption, repurchase or defeasance obligations in connection with a change of control, fundamental change or asset sale) thereof, (ii) convert or exchange any Permitted Convertible Debt in accordance with its terms into shares of common stock and make a payment of cash in lieu of fractional shares of the Borrower's common stock deliverable upon any such conversion or exchange, (iii) deliver cash in connection with any conversion or exchange of Permitted Convertible Debt in an aggregate amount since the date of the indenture governing such Permitted Convertible Debt not to exceed the sum of (A) the principal amount of such Permitted Convertible Debt plus (B) any payments received by the Borrower or any of its Subsidiaries pursuant to the exercise, settlement or termination of any related Permitted Bond Hedge Transaction, (iv) make any payments in connection with a Permitted Bond Hedge Transaction and make the settlement of any related Permitted Warrant Transaction (A) by delivery of shares of the Borrower's common stock upon settlement thereof or (B) by (1) set off against the related Permitted Bond Hedge Transaction or (2) payment of an early termination amount thereof in common stock upon any early termination thereof and (v) payments and prepayments in connection with any Permitted Refinancing of Permitted Convertible Debt permitted by Section 8.3(h)(ii);
- (g) [reserved];
- (h) [reserved];
- (i) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests which are held by current, future or former officers, directors or employees of such Person in an amount not to exceed in the aggregate \$25,000,000 in any calendar year with the ability to carry-over any unused amount in a calendar year for the next two (2) succeeding calendar years so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;
- (j) Credit Parties and their Subsidiaries may redeem or purchase their respective Equity Interests not to exceed in the aggregate in any calendar year the greater of (i) \$125,000,000 and (ii) fifteen percent (15%) of Consolidated Total Assets and with the ability to carry-over any unused amount in a calendar year for the next two (2) succeeding calendar years so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof;
- (k) Credit Parties and their Subsidiaries may make Restricted Payments not to exceed in the aggregate the greater of (i) \$100,000,000 and (ii) 12% of Consolidated Total Assets so long as in each case no Default or Event of Default exists and is continuing or would occur as a result thereof; and
- (l) Credit Parties and their Subsidiaries may make Restricted Payments in connection with the purchase of fractional shares of its common stock arising out of stock dividends, splits or combinations or business combinations.

Notwithstanding anything to the contrary herein, during the Designated Period, the exceptions set forth above in this Section 8.5 shall be further limited as follows: (A) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or make any Restricted Payment (including pursuant to any carry-over from prior years) pursuant to clauses (e) and (k) above, (B) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or make Restricted Payments (including pursuant to any carry-over from prior years) pursuant to clause (i) of this Section in an aggregate amount in excess of \$15,000,000, (C) the Borrower shall not, and shall not permit any of its Subsidiaries to directly or indirectly declare, pay or make Restricted Payments (including pursuant to any carry-over from prior years) pursuant to clause (j) above except that (1) so long as after giving effect thereto and any Debt incurred in connection therewith, the Borrower is in *pro forma* compliance with each of the then applicable covenants in Article 9, IMAX Cayman may redeem or purchase its respective Equity Interests in an aggregate amount not to exceed \$40,000,000 which shall be financed solely from cash at IMAX Cayman and (2) so long as after giving effect thereto and any Debt incurred in connection therewith, on a Pro Forma Basis, Liquidity is not less than \$300,000,000, the Borrower may purchase its respective Equity Interests in an aggregate amount not to exceed \$60,000,000 and (D) the Borrower shall not and shall not permit any of its Subsidiaries to make any prepayment, repayment, redemption, purchase, defeasance or acquisition for value of any Permitted Convertible Debt other than (1) payments of interest thereon, and mandatory prepayment, redemption, repurchase or defeasance obligations in connection with a change of control, delisting, fundamental change or asset sale in each case in accordance with clause (f)(i) above and any customary redemptions in lieu of payment of withholding taxes arising from a change in Applicable Law after the date of issuance of such Permitted Convertible Debt and (2) in connection with a Permitted Refinancing of such Permitted Convertible Debt. For purposes of determining any carry-over amounts in this Section 8.5, it is acknowledged and agreed that with respect to any calendar year that ends during the Designated Period such carry-over amounts shall be determined based on the basket and threshold amounts set forth in this paragraph and with respect to any calendar year that ends after the Designated Period such carry-over amount shall be determined based on the basket and threshold amounts set forth in the applicable clause of Section 8.5 without giving effect to the adjustments in this paragraph.

#### **8.6 Transactions with Affiliates**

Directly or indirectly, (a) purchase, acquire or lease any property from, or sell, transfer or lease any property to, any officer, director, agent or other person affiliated with it, except in the ordinary course of and pursuant to the reasonable requirements of its business and upon fair and reasonable terms no less favorable to it than it would obtain in a comparable arm's length transaction with an unaffiliated person or (b) make any payments of management, consulting or other fees for management or similar services, or of any Debt (including under the USERP) owing to any officer, employee, shareholder, director or other person affiliated with it except (i) reasonable compensation to officers, employees and directors for services rendered to it in the ordinary course of business and (ii) payments to Bradley J. Wechsler and Richard L. Gelfond in accordance with the USERP.



8.7[Reserved]

8.8[Reserved]

### 8.9 No Material Changes

(a) Change its Fiscal Quarters or its Fiscal Year, (b) make any material change to its business or the conduct thereof from that existing or being conducted as of the Restatement Effective Date, other than changes that would not be reasonably expected to have a Material Adverse Effect or (c) make any material changes to its accounting policies in effect as of the Restatement Effective Date, except as required or permitted by GAAP.

### 8.10 No Further Negative Pledges; Restrictive Agreements

- (a) Enter into, assume or be subject to any agreement prohibiting or otherwise restricting the creation or assumption of any Lien upon its properties or assets (including contractual provisions restricting the assignability thereof to Agent or to an assignee thereof upon exercise by Agent of any rights or remedies set forth in the Financing Agreements or at law) or requiring the grant of any security for such obligation if security is given for some other obligation, except (i) pursuant to this Agreement and the other Financing Agreements, (ii) pursuant to any document or instrument governing Debt incurred pursuant to Section 8.3(c); provided, that any such restriction contained therein relates only to the asset, properties or interests acquired in connection therewith, (iii) restrictions in connection with any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or properties subject to such Permitted Lien); (iv) pursuant to any document or instrument governing Permitted Debt; (v) restrictions by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses and similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the property or assets secured by such Liens or the property or assets subject to such leases, licenses or similar agreements, as the case may be); (vi) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures (to the extent only affecting the assets of, or the Equity Interests in, each such joint venture); and (vii) any agreement in effect at the time any Person becomes a Subsidiary (to the extent only affecting the assets of, or the Equity Interests in, each such Person), so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary; provided, that this Section 8.10(a) shall not apply to any Subsidiaries that are not Credit Parties and are not required to become Credit Parties hereunder.
- (b) Create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Credit Party or any Subsidiary thereof to (i) pay dividends or make any other distributions to any Credit Party or any Subsidiary on its Equity Interests, (ii) pay any obligations, liabilities and indebtedness owed to any Credit Party, (iii) make loans or advances to any Credit Party, (iv) sell, lease or transfer any of its properties or assets to any Credit Party or (v) act as a Guarantor pursuant to the Financing Agreements, except (in respect of any of the matters referred to in clauses (i).

through (v) above) for such encumbrances or restrictions existing under or by reason of (A) this Agreement and the other Financing Agreements, (B) Applicable Law, (C) any document or instrument governing Debt incurred pursuant to Section 8.3(c) (provided, that any such restriction contained therein relates only to the asset or properties acquired in connection therewith), (D) any Permitted Lien or any document or instrument governing any Permitted Lien (provided, that any such restriction contained therein relates only to the asset or properties subject to such Permitted Lien), (E) obligations that are binding on a Subsidiary at the time such Subsidiary first becomes a Subsidiary of a Credit Party, so long as such obligations are not entered into in contemplation of such Person becoming a Subsidiary, (F) any document or instrument governing Permitted Debt, (G) customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and similar agreements entered into in the ordinary course of business, (H) customary encumbrances or restrictions that are or were created by virtue of any transfer of, agreement to transfer or option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement, (I) customary encumbrances or restrictions contained in contracts or agreements for the sale of assets applicable to such assets pending consummation of such sale, including customary restrictions with respect to a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all the Equity Interests or assets of such Subsidiary, (J) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business, (K) customary provisions in (i) joint venture agreements entered into in the ordinary course of business with respect to the Equity Interests subject to the joint venture and (ii) operating or other similar agreements, asset sale agreements and stock sale agreements entered into in connection with the entering into of such transaction, which limitation is applicable only to the assets that are the subject of those agreements, (L) customary net worth and similar provisions in leases for real property and (M) described in the definition of “Material Subsidiary”.

## **ARTICLE 9**

### **FINANCIAL COVENANT**

#### **9.1 Maximum Senior Secured Net Leverage Ratio**

Except during the period from the First Amendment Effective Date through and including the earlier of (a) March 31, 2022 and (b) the date upon which the Borrower provides a Designated Period Suspension Notice, Borrower shall not permit the Senior Secured Net Leverage Ratio as of the last day of any Fiscal Quarter to be greater than 3.25:1.00 (which ratio will be increased by 0.5x to 3.75:1.00 for the four (4) consecutive Fiscal Quarters following a Material Acquisition), which shall be calculated and tested on the last day of each Fiscal Quarter on a trailing four (4) Fiscal Quarter basis.

#### **9.2 Minimum Liquidity**

The Borrower shall not permit Liquidity as of the last day of each calendar month to be less than \$75,000,000 at any time from and after the First Amendment Effective Date through and including the earlier of (a) December 31, 2022 and (b) the end of the Designated Period.

**ARTICLE 10**  
**EVENTS OF DEFAULT AND REMEDIES**

**10.1 Events of Default**

The occurrence and continuation of any one or more of the following events are referred to herein individually as an “**Event of Default**”, and collectively as “**Events of Default**”:

- (a) Borrower fails to (i) pay any principal due and payable hereunder; (ii) any interest on any Loan or any fee or any other amount due hereunder within three (3) Business Days after the date due; or (iii) perform the covenant contained in Section 9.1 of this Agreement;
- (b) any Credit Party or any Subsidiary thereof fails to:
  - (i) perform any of the covenants contained in Sections 7.1 (with respect to the Credit Parties), 7.14, 8.1, 8.2, 8.3, 8.4, 8.5 or 8.6 of this Agreement, where such failure to perform is not remedied to the satisfaction of Agent, in its sole discretion, within 3 days of such failure to perform; or
  - (ii) perform any other terms, covenants, conditions or provisions contained in this Agreement or any of the other Financing Agreements, where such failure to perform is not remedied to the satisfaction of Agent or waived by Agent, in its sole discretion, within 30 days from receipt by any Credit Party of notice by Agent; or
  - (iii) perform the covenant contained in Section 9.2 of this Agreement, where such failure to perform is not remedied to the satisfaction of Agent, in its sole discretion, within five (5) Business Days of such failure to perform;
- (c) any representation or warranty made by or on behalf of any Credit Party hereunder or under any other Financing Agreement proves to be false or inaccurate (i) in any material respect when made if not subject to materiality or Material Adverse Effect qualifications or (ii) in any respect if subject to materiality or Material Adverse Effect qualifications, and in each case same is not remedied to the satisfaction of Agent or waived by Agent, in its sole discretion, within 15 days from receipt by any Credit Party of notice by Agent;
- (d) any Credit Party shall contest the validity or enforceability of any Financing Agreement in writing or deny in writing that it has any liability, including with respect to future advances by Lenders, under any Financing Agreement to which it is a party;
- (e) [reserved];
- (f) (i) any final non-appealable judgment for the payment of money is rendered against any Credit Party or any Subsidiary thereof in excess of \$25,000,000 in the aggregate and (A) shall remain undischarged or unvacated for a period in excess of 60 days or (B) execution shall at any time not be effectively stayed; or (ii) any final non-appealable judgment other than for the payment of money, or injunction, attachment, garnishment or execution is rendered against any Credit Party or any Subsidiary thereof or any of their assets that

could reasonably be expected to have a Material Adverse Effect and (A) shall remain undischarged or unvacated for a period in excess of 60 days or (B) execution shall at any time not be effectively stayed; provided that, in each case of clause (i) and (ii), no Event of Default shall occur if (x) the applicable judgment is paid, (y) the applicable judgment is covered by third-party insurance as to which the insurer has been notified of such judgment and has not denied full coverage thereof in writing to such Credit Party or Subsidiary or (z) the applicable judgment is covered by an enforceable indemnity by an arms-length third party, to the extent that such Credit Party or Subsidiary shall have made a claim for indemnification and the applicable indemnifying party shall not have disputed such claim;

- (g) [reserved];
- (h) [reserved];
- (i) an Insolvency Proceeding is filed or commenced against any Credit Party or Material Subsidiary thereof or all or any part of its properties and (i) such Insolvency Proceeding is not dismissed within 60 days after the date of its filing, or (ii) any Credit Party or Material Subsidiary thereof shall file any answer admitting or not contesting such Insolvency Proceeding or indicates in writing its consent to, acquiescence in or approval of, any such Insolvency Proceeding or (iii) the relief requested is granted by a court of competent jurisdiction;
- (j) an Insolvency Proceeding is filed or commenced by any Credit Party or Material Subsidiary thereof for all or any part of its property including if any Credit Party or Material Subsidiary shall:
  - (i) apply for or consent to the appointment of a receiver, trustee or liquidator of it or of all or a substantial part of its property and assets;
  - (ii) be unable, or admit in writing its inability, to pay its debts as they mature, or commit any other act of bankruptcy;
  - (iii) make a general assignment for the benefit of creditors;
  - (iv) file a voluntary petition or assignment in bankruptcy or a proposal seeking a reorganization, compromise, moratorium or arrangement with its creditors;
  - (v) take advantage of any Insolvency Law pertaining to arrangements, moratoriums, compromises or reorganizations, or admit the material allegations of a petition or application filed in respect of it in any Insolvency Proceeding; or
  - (vi) take any corporate action for the purpose of effecting any of the foregoing;
- (k)
  - (i) any failure of any Credit Party or any Subsidiary thereof to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Debt (other than with respect to the Obligations hereunder) in an

aggregate principal amount in excess of \$25,000,000, which failure continues for more than the applicable cure period, if any, with respect thereto; or

- (ii) any default by any Credit Party or any Subsidiary thereof with respect to any other term of (A) one or more items of Debt in the aggregate principal amount referred to in clause (i) above or (B) any agreement, document or instrument relating to such item(s) of Debt, in each case after the expiration of the applicable cure period, if any, with respect thereto, if the effect of such default is to cause, or to permit the holder or holders of that Debt, to cause that Debt to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that this clause (k)(ii) shall not apply to (x) secured Debt that becomes due as a result of the sale or transfer or other disposition of the property or assets securing such Debt permitted hereunder and under the documents providing for such Debt and such Debt is repaid when required under the documents providing for such Debt, (y) conversions or exchanges of (or the ability by holders to convert or exchange) any Permitted Convertible Debt as a result of (or upon the satisfaction of) a contingent conversion trigger (including the passage of time) that does not constitute or arise from a default (other than a delisting) under the definitive documentation for such Permitted Convertible Debt or (z) events of default, termination events or any other similar event under the documents governing Hedge Agreements for so long as such event of default, termination event or other similar event does not result in the occurrence of an early termination date or any acceleration or prepayment of any amounts or other Debt payable thereunder;
- (l) [reserved];
- (m) any Change of Control shall have occurred;
- (n) [reserved];
- (o) any Lien created by a Financing Agreement shall cease to be a valid and perfected first priority Lien (except for Permitted Liens) in favor of Agent in any material amount of the Collateral purported to be covered thereby for any reason other than the failure of Agent or any Secured Party to take any action within its control; or
- (p) an ERISA Event shall occur which results in or would reasonably be expected to result in a Material Adverse Effect.

## 10.2 Remedies

- (a) At any time an Event of Default has occurred and is continuing, Agent shall (at the request of, or may, with the consent of, the Required Lenders) have all rights and remedies provided in the Financing Agreements, the PPSA, UCC and other Applicable Law, all of which rights and remedies may be exercised without notice to or consent by any Credit Party, except as such notice or consent is expressly provided for hereunder or required by Applicable Law. All rights, remedies and powers granted to Agent and Lenders under any of the Financing Agreements, the PPSA, UCC or other Applicable Law, are

cumulative, not exclusive and enforceable, in Agent's or Lenders' discretion, alternatively, successively, or concurrently on any one or more occasions, and shall include the right to apply to a court of equity for an injunction to restrain a breach or threatened breach by any Credit Party of any of the Financing Agreements. Agent shall (at the request of, or may, with the consent of, the Required Lenders) at any time or times, proceed directly against any Credit Party to collect the Obligations (except under or in connection with Secured Hedge Agreements (which shall be collected in accordance with the terms thereof)) without prior recourse to the Collateral.

- (b) Without limiting the foregoing and subject to Section 10.2(c) hereof, upon the occurrence and continuation of any Event of Default, upon notice to Borrower by Agent, Agent shall (at the request of, or may, with the consent of, the Required Lenders): (i) accelerate the payment of all outstanding Obligations (other than Obligations in connection with Secured Hedge Agreements which may be terminated in accordance with their own terms) (provided that, upon the occurrence of any Event of Default described in Section 10.1(i) or 10.1(j), all such outstanding Obligations shall automatically become due and payable without notice to Borrower or demand by Agent) and demand immediate payment thereof to Agent; (ii) with or without judicial process or the aid or assistance of others, enter upon any premises on or in which any of the Collateral may be located and take possession of the Collateral or complete processing, manufacturing and repair of all or any portion of the Collateral and carry on the business of any Credit Party; (iii) require each Credit Party, at such Credit Party's expense, to assemble and make available to Agent any part or all of the Collateral at any place and time designated by Agent; (iv) collect, foreclose, receive, appropriate, set-off and realize upon any and all Collateral; (v) remove any or all of the Collateral from any premises on or in which the same may be located for the purpose of effecting the sale, foreclosure or other disposition thereof or for any other purpose; (vi) sell, lease, transfer, assign, deliver or otherwise dispose of any and all Collateral (including entering into contracts with respect thereto, public or private sales at any exchange, broker's board, at any office of Agent or elsewhere) at such prices or terms as Agent may deem reasonable, for cash, upon credit or for future delivery, with Agent having the right to purchase the whole or any part of the Collateral at any such public sale, all of the foregoing being free from any right or equity of redemption of any Credit Party, which right or equity of redemption is hereby expressly waived and released by each Credit Party; (vii) without limiting clause (vi), grant a general, special or other license in respect of any aspect of the Collateral on an exclusive or non-exclusive basis to any person throughout the world or any part of it and on such terms and on such conditions as Agent may consider appropriate; (viii) enforce against any licensee or other person all rights and remedies of each Credit Party with respect to all or any part of the Collateral, and take or refrain from taking any action that any Credit Party might take with respect to any of those rights and remedies, and for this purpose Agent shall have the exclusive right to enforce or refrain from enforcing those rights and remedies, and may in the name of any Credit Party and at its expense retain and instruct counsel and initiate any court or other proceeding that Agent considers necessary or expedient; (ix) take any step necessary to preserve, maintain or insure the whole or any part of the Collateral or to realize upon any of it or to put it in vendable condition, and any amount paid as a result of any taking any such steps shall be a cost the payment of which is secured by the Financing Agreements; (x) borrow money and use the Collateral directly

or indirectly in carrying on any Credit Party's business or as security for loans or advances for any such purposes; (xi) require each Credit Party to immediately begin using commercially reasonable efforts to obtain all consents and to provide all notices which may be required to permit Agent to assign any agreement or contract; (xii) grant extensions of time and other indulgences, take and give up security, accept compositions, grant releases and discharges, and otherwise deal with any Credit Party, debtors of any Credit Party, sureties and others as Agent may see fit without prejudice to the liability of any Credit Party or Agent's right to hold and realize the security interest created under any Financing Agreement; and/or (xiii) terminate this Agreement. If any of the Collateral is sold or leased by Agent upon credit terms or for future delivery, the Obligations shall not be reduced as a result thereof until payment therefor is finally collected by Agent. If notice of disposition of Collateral is required by law, ten (10) days prior notice by Agent to Borrower designating the time and place of any public sale or the time after which any private sale or other intended disposition of Collateral is to be made, shall be deemed to be reasonable notice thereof and each Credit Party waives any other notice. In the event Agent institutes an action to recover any Collateral or seeks recovery of any Collateral by way of prejudgment remedy, each Credit Party waives the posting of any bond which might otherwise be required.

(c) Notwithstanding anything to the contrary contained in this Section 10.2:

- (i) for the duration of the IP Grace Period, Agent shall not be permitted to enforce its security interest against the IP Collateral, or to exercise its rights under Section 10.2(b) with respect to the IP Collateral hereof except as permitted pursuant to the IP Collateral License Agreement;
- (ii) for the duration of the IP Grace Period, Borrower shall be permitted to use the IMAX name to carry on business;
- (iii) upon the commencement of the IP Grace Period, Agent shall have, pursuant to the IP Collateral License Agreement, a royalty-free, freely assignable perpetual license to use the IP Collateral required to enable Agent to perform the obligations of Borrower under any contract or agreement;
- (iv) upon the commencement of the IP Grace Period, Agent may sell, transfer, assign and/or otherwise dispose of the Collateral, other than the IP Collateral, to any transferee or assignee in accordance with the terms of the Financing Agreements; and
- (v) subsequent to the expiry of the IP Grace Period, provided that an Event of Default is then continuing, Agent may sell, transfer, assign and/or otherwise dispose of any of the IP Collateral up to a maximum amount equal to the outstanding Obligations together with all costs, charges and expenses incurred by Agent as a result of enforcing against the IP Collateral and Borrower hereby irrevocably designates and appoints Agent (and any officer or agent thereof) as Borrower's true and lawful attorney-in-fact and authorizes Agent (and any officer or agent thereof) to effect the foregoing.

- (d) Agent may apply the cash proceeds of Collateral actually received by Agent from any sale, lease, foreclosure or other disposition of the Collateral to payment of the Obligations in the order set forth in Section 5.3(b).
- (e) [Reserved].
- (f) Without limiting the foregoing, (1) upon the occurrence of any Event of Default described in Section 10.1(i) or 10.1(j), automatically, Agent shall (at the request of, or may, with the consent of, the Required Lenders), and (2) upon the occurrence and continuation of any other Event of Default, upon notice to Borrower by Agent, Agent shall (at the request of, or may, with the consent of, the Required Lenders), (i) cease making Loans or arranging Letter of Credit Accommodations, (ii) terminate any provision of this Agreement providing for any future Loans or Letter of Credit Accommodations to be made by Lenders to Borrower and/or (iii) appoint, remove and reappoint any person or persons, including an employee or agent of Agent or a Lender to be a receiver (the “**Receiver**”) which term shall include a receiver and manager of, or agent for, all or any part of the Collateral (and such Receiver shall have all of the powers and rights of Agent described in this Section 10.2 and Agent may, either directly or through its agents or nominees, exercise any or all powers and rights of a Receiver).
- (g) [Reserved].
- (h) Where Agent realizes upon any of the Collateral, and in particular upon any of the IP Collateral, to the extent permitted or not prohibited by any agreements relating to such IP Collateral, each Credit Party shall provide without charge its know-how and expertise relating to the use and application of the Collateral, and in particular shall instruct Agent, and any purchaser of the Collateral designated by Agent, concerning any IP Collateral including any confidential information or trade secrets of such Credit Party. For greater certainty, the parties agree that unless such confidential information or trade secrets form part of the Collateral being realized upon, such confidential information or trade secrets shall be provided for use only subject to any agreement regarding the confidentiality thereof or for the protection thereof as may be reasonably requested by a Credit Party.
- (i) [Reserved].
- (j) Each Credit Party hereby irrevocably designates and appoints Agent (and any officer or agent thereof) as such Credit Party’s true and lawful attorney-in-fact, and authorizes Agent, in such Credit Party’s or Agent’s name, to:
  - (a) at any time an Event of Default has occurred and is continuing: (i) demand payment on Accounts or other proceeds of the Collateral, (ii) enforce payment of Accounts by legal proceedings or otherwise, (iii) exercise all of such Credit Party’s rights and remedies to collect any Account or other Collateral, (iv) sell or assign any Account upon such terms, for such amount and at such time or times as Agent deems advisable, (v) settle, adjust, compromise, extend or renew an Account, (vi) discharge and release any Account, (vii) prepare, file and sign such Credit Party’s name on any proof of claim in bankruptcy or other similar document against an account debtor, (viii) notify the post office authorities to change the address for delivery of such Credit Party’s mail to an address designated by Agent, and open and



dispose of all mail addressed to such Credit Party, (ix) do all acts and things which are necessary, in Agent's determination, to fulfill such Credit Party's obligations under the Financing Agreements, (x) have access to any lockbox or postal box into which such Credit Party's mail is deposited, (xi) endorse such Credit Party's name upon any chattel paper, document, instrument, invoice, or similar document or agreement relating to any Account or any goods pertaining thereto or any other Collateral, (xii) sign such Credit Party's name on any verification of Accounts and notices thereof to account debtors, (xiii) endorse such Credit Party's name upon any items of payment or proceeds thereof and deposit the same in Agent's account for application to the Obligations; and (xiv) take control in any manner of any item of payment or proceeds thereof; and (b) at any time, to execute in such Credit Party's name and file any PPSA, UCC or other financing statements or amendments thereto in respect of the security interests granted to Agent pursuant to any of the Financing Agreements if such Credit Party has not done so within two (2) days from Agent's request. Neither Agent nor its officers, employees and agents shall be responsible to any Credit Party from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of Agent's own gross negligence or willful misconduct or the gross negligence or willful misconduct of its officers, employees or agents, in each case, as determined pursuant to a final non-appealable order of a court of competent jurisdiction.

- (k) Agent may, at any time or times that an Event of Default has occurred and is continuing, at its option: (a) cure any default by any Credit Party or any Subsidiary thereof under any agreement with a third party or pay or bond on appeal any judgment entered against any Credit Party or any Subsidiary thereof; (b) discharge taxes and Liens at any time levied on or existing with respect to the Collateral; and (c) pay any amount, incur any expense or perform any act which, in Agent's good faith judgment, is necessary or appropriate to preserve, protect, insure or maintain the Collateral and the rights of Agent with respect thereto. Agent may add any amounts so expended to the Obligations and charge Borrower's account therefor, such amounts to be repayable by each Credit Party on demand. Agent shall be under no obligation to effect such cure, payment or bonding and shall not, by doing so, be deemed to have assumed any obligation or liability of any Credit Party or any Subsidiary thereof. Any payment made or other action taken by Agent under this Section shall be without prejudice to any right to assert an Event of Default hereunder and to proceed accordingly.

**10.3 Agent May File Proofs of Claim.** In case of the pendency of any proceeding under any Insolvency Law or any other judicial proceeding relative to any Credit Party, the Agent (irrespective of whether the principal of any Loan or Letter of Credit Accommodation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on any Credit Party) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Accommodations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lender and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lender and the Agent and their

respective agents and counsel and all other amounts due the Lenders, the Issuing Lender and the Agent under Sections 2.2(b), 3.7, 12.5 and 12.6 allowed in such judicial proceeding; and

(e) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Lender to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lender, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.2(b), 3.7, 12.5 and 12.6.

#### **10.4 Credit Bidding.**

(a) The Agent, on behalf of itself and the Secured Parties, shall have the right, exercisable at the direction of the Required Lenders, to credit bid and purchase for the benefit of the Agent and the Secured Parties all or any portion of Collateral at any sale thereof conducted by the Agent under the provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC, at any sale thereof conducted under the provisions of the United States Bankruptcy Code, including Section 363 thereof, or a sale under a plan of reorganization, or at any other sale or foreclosure conducted by the Agent (whether by judicial action or otherwise) in accordance with Applicable Law. Such credit bid or purchase may be completed through one or more acquisition vehicles formed by the Agent to make such credit bid or purchase and, in connection therewith, the Agent is authorized, on behalf of itself and the other Secured Parties, to adopt documents providing for the governance of the acquisition vehicle or vehicles, and assign the applicable Obligations to any such acquisition vehicle in exchange for Equity Interests and/or debt issued by the applicable acquisition vehicle (which shall be deemed to be held for the ratable account of the applicable Secured Parties on the basis of the Obligations so assigned by each Secured Party); provided that any actions by the Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 11.14.

(f) Each Lender hereby agrees, on behalf of itself and each of its Affiliates that is a Secured Party, that, except as otherwise provided in any Financing Agreement or with the written consent of the Agent and the Required Lenders, it will not take any enforcement action, accelerate obligations under any of the Financing Agreements or exercise any right that it might otherwise have under Applicable Law to credit bid at foreclosure sales, UCC sales or other similar dispositions of Collateral.

### **ARTICLE 11**

#### **ASSIGNMENT AND PARTICIPATIONS: APPOINTMENT OF AGENT**

##### **11.1 Assignment and Participations**

(a) Subject to and in accordance with the terms of this Section 11.1, any Lender may make an assignment or a sale of participations in, at any time or times, the Financing Agreements, any Loans and any Commitment or any portion thereof or interest therein,

including any Lender's rights, title, interests, remedies, powers or duties thereunder. Any assignment by a Lender shall:

- (i) be in a minimum amount of \$5,000,000 with respect to Revolving Loans and \$1,000,000 with respect to Incremental Term Loans;
- (ii) require the consent of Agent, Issuing Lender, Swingline Lender and Borrower; provided that:
  - (A) such consent is not to be unreasonably withheld, conditioned or delayed;
  - (B) the consent of Issuing Lender and Swingline Lender shall not be required with respect to assignments of Incremental Term Loans;
  - (C) the consent of Borrower shall not be required if:
    - (1) a Payment/Insolvency Event of Default has occurred and is continuing;
    - (2) such assignment is to an Eligible Transferee; or
    - (3) Borrower does not object to such assignment within ten (10) Business Days of receipt of notice of such assignment;
- (iii) not be to a Prohibited Transferee;
- (iv) be effected by the execution of an Assignment and Assumption Agreement;
- (v) be conditioned on such assignee Lender representing to the assigning Lender and Agent that it is purchasing the Loans to be assigned to it for its own account, for investment purposes and not with a view to the distribution thereof; and
- (vi) include a payment from such assignee to Agent of an assignment fee of \$3,500.

In the case of an assignment by a Lender under this Section 11.1, the assignee shall have, to the extent of such assignment, the same rights, benefits and obligations as all other Lenders hereunder. The assigning Lender shall be relieved of its obligations hereunder with respect to its Commitment or assigned portion thereof from and after the date of such assignment. Borrower hereby acknowledges and agrees that any assignment shall give rise to a direct obligation of Borrower to the assignee and that the assignee shall be considered to be a "**Lender**" hereunder. In all instances, each Lender's liability to make Loans hereunder shall be several and not joint and shall be limited to such Lender's Pro Rata Share of the Commitment. In the event any Lender assigns or otherwise transfers all or any part of the Obligations, such Lender shall provide prior notice to Borrower and Borrower shall, upon the request of Agent or such Lender, execute new notes in exchange for the notes, if any, being assigned. Borrower agrees from time to time to execute notes (in form and substance satisfactory to Agent, acting reasonably) evidencing the Loans if requested by Agent. Notwithstanding the foregoing provisions of this Section 11.1(a),

any Lender may at any time pledge the Obligations held by it and such Lender's rights under this Agreement and the other Financing Agreements to a Federal Reserve Bank, the Bank of Canada or the Canada Deposit Insurance Corporation or foreign equivalent; provided, that no such pledge shall release such Lender from such Lender's obligations hereunder or under any other Financing Agreement or substitute any such pledgee or assignee for such Lender as a party hereto.

- (b) Any sale of a participation by a Lender of all or any part of its Commitment or Loans shall be made with the understanding that all amounts payable by Borrower hereunder shall be determined as if that Lender had not sold such participation, and that the holder of any such participation shall not be entitled to require such Lender to take or omit to take any action hereunder except actions directly affecting (i) any reduction in the principal amount of, or interest rate or fees payable with respect to any Loan in which such holder participates, (ii) any extension of the scheduled amortization of the principal amount of any Loan in which such holder participates or the final maturity date thereof, and (iii) any release of all or substantially all of the Collateral (other than in accordance with the terms of this Agreement or the other Financing Agreements). Neither Agent nor any Lender (other than a Lender selling a participation) shall have any duty to any participant and may continue to deal solely with Lenders selling a participation as if no such sale had occurred. No consent of Borrower, Agent or Issuing Lender is required with respect to the sale of a participation by a Lender of all or any part of its Commitment or Loans; provided that each Lender shall provide Agent and Borrower with prior written notice of each sale of a participation. No sale of a participation by a Lender of all or any part of its Commitment or Loans shall be made to a Prohibited Transferee.
- (c) Each Credit Party shall assist any Lender permitted to sell assignments or participations under this Section 11.1 as reasonably required to enable the assigning or selling Lender to effect any such assignment or participation, including the execution and delivery of any and all agreements, notes and other documents and instruments as shall be requested, the preparation of informational materials for, and the participation of management in meetings with, potential assignees or participants. Each Credit Party shall certify the correctness, completeness and accuracy of all descriptions of it and its respective affairs contained in any selling materials provided by it and all other information provided by it and included in such materials.
- (d) A Lender may furnish any information concerning a Credit Party in the possession of such Lender from time to time to assignees and participants (including prospective assignees and participants), in each case, other than to any Prohibited Transferee, provided such Persons agree to maintain the confidentiality of such information in accordance with Section 7.11(b).
- (e) No Credit Party may assign its rights under the Financing Agreements and any other document referred to herein or therein without the prior written consent of Agent and all Lenders.
- (f) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other

conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Agent, the applicable pro rata share of Loans previously requested, but not funded by, the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Agent, the Issuing Lender, the Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letter of Credit Accommodations and Swingline Loans in accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs. Except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

- (g) The Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in Charlotte, North Carolina, a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of (and stated interest on) the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender (but only to the extent of entries in the Register that are applicable to such Lender), at any reasonable time and from time to time upon reasonable prior notice.
- (h) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts of (and stated interest on) each participant's interest in the Loans or other obligations under the Financing Agreements (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Financing Agreement) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury Regulations (or, in each case, any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the

Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

## 11.2 Appointment of Agent

- (a) Agent is hereby appointed to act on behalf of Secured Parties as Agent under this Agreement and the other Financing Agreements. Except as expressly provided in Section 11.11(a), the provisions of this Section 11.2 and Sections 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 11.9, 11.10, 11.11, 11.13, 11.15 and 11.16 are solely for the benefit of Agent and Lenders and neither any Credit Party nor any other Person shall have any rights as a third party beneficiary of any of the provisions hereof. In performing its functions and duties under this Agreement and the other Financing Agreements, Agent shall act solely as an agent of Secured Parties and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Credit Party or any Person other than Secured Parties. Agent shall have no duties or responsibilities except for those expressly set forth in this Agreement and the other Financing Agreements. The duties of Agent shall be mechanical and administrative in nature and Agent shall not have, or be deemed to have, by reason of this Agreement, any other Financing Agreement or otherwise a fiduciary relationship in respect of any Secured Party. Except as expressly set forth in this Agreement and the other Financing Agreements, Agent shall not have any duty to disclose, and shall not be liable for failure to disclose, any information relating to any Credit Party or any of their respective Subsidiaries that is communicated to or obtained by Agent or any of its affiliates in any capacity. Neither Agent nor any of its affiliates nor any of their respective officers, directors, employees, agents or representatives shall be liable to any Secured Party for any action taken or omitted to be taken by it hereunder or under any other Financing Agreement, or in connection herewith or therewith, except for damages caused by its or their own gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on them from a court of competent jurisdiction.
- (b) If Agent shall request instructions from all Lenders, all affected Lenders or Required Lenders, as the case may be, with respect to any act or action (including failure to act) in connection with this Agreement or any other Financing Agreement, then Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from all Lenders, all affected Lenders or Required Lenders, as the case may be, and Agent shall not incur liability to any Person by reason of so refraining. Agent shall be fully justified in failing or refusing to take any action hereunder or under any other Financing Agreement (i) if such action would, in the opinion of Agent, be contrary to law or the terms of this Agreement or any other Financing Agreement; (ii) if such action would, in the opinion of Agent, expose Agent to liabilities under Environmental Laws; or (iii) if Agent in good faith believes such action would expose it to personal liability unless such Agent receives an indemnification satisfactory to it from Lenders and Issuing Lender with respect to such action. Without limiting the foregoing, no Secured Party shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting hereunder or under any other Financing Agreement

in accordance with the instructions of all Lenders, all affected Lenders or Required Lenders, as the case may be.

### **11.3 Agent's Reliance, Etc.**

Agent: (i) may treat the payee of any note as the holder thereof until Agent receives written notice of the assignment or transfer thereof signed by such payee and in form reasonably satisfactory to Agent; (ii) may consult with legal counsel, independent public accountants and other experts selected by it; (iii) makes no warranty or representation to any Secured Party and shall not be responsible to any Secured Party for any statements, warranties or representations made in or in connection with this Agreement or the other Financing Agreements; (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Financing Agreements on the part of any Credit Party or to inspect the Collateral (including the books and records) of any Credit Party; (v) shall not be responsible to any Secured Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or the other Financing Agreements or any other instrument or document furnished pursuant hereto or thereto; and (vi) shall incur no liability under or in respect of this Agreement or the other Financing Agreements by acting upon any notice, consent, certificate or other instrument or writing (which may be by telecopy, telegram, cable or telex) believed by it to be genuine and signed or sent by the proper party or parties.

### **11.4 Agent as Lender**

With respect to its Commitment and Loans hereunder, Agent shall have the same rights and powers under this Agreement and the other Financing Agreements as any other Lender and may exercise the same as though it were not Agent; and the term "**Lender**" or "**Lenders**" hereunder shall, unless otherwise expressly indicated, include Agent in its individual capacity. Agent and its affiliates may lend money to, invest in, and generally engage in any kind of business with any Credit Party, any of its affiliates and any Person who may do business with or own securities of any Credit Party or any such affiliate, all as if Agent were not Agent and without any duty to account therefore to Secured Parties. Agent and its affiliates may accept fees and other consideration from any Credit Party for services in connection with this Agreement or otherwise without having to account for the same to Secured Parties. Each Secured Party acknowledges the potential conflict of interest between Agent as a Lender and Agent as agent hereunder.

### **11.5 Lender Credit Decision**

Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit and financial analysis of each Credit Party and its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement. Each Lender acknowledges the potential conflict of interest of each other Lender as a result of Lenders holding disproportionate interests in the Commitment and the Loans, and expressly consents to, and waives any claim based upon, such conflict of interest. Each Lender acknowledges and agrees that (a) the Financing Agreements set forth the terms of a commercial lending facility, (b) it is engaged in making, acquiring, purchasing or holding commercial loans in the ordinary course and is entering into this Agreement and

the other Financing Agreements to which it is a party as a Lender for the purpose of making, acquiring, purchasing and/or holding the commercial loans set forth herein as may be applicable to it, and not for the purpose of making, acquiring, purchasing or holding any other type of financial instrument and (c) it is sophisticated with respect to decisions to make, acquire, purchase or hold the commercial loans applicable to it and either it or the Person exercising discretion in making its decisions to make, acquire, purchase or hold such commercial loans is experienced in making, acquiring, purchasing or holding commercial loans.

#### **11.6 Indemnification**

Lenders agree to indemnify Agent (to the extent not reimbursed by Credit Parties and without limiting the obligations of Credit Parties hereunder), ratably according to their respective Pro Rata Shares, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any other Financing Agreement or any action taken or omitted to be taken by Agent in connection therewith; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Agent of a court of competent jurisdiction. Without limiting the foregoing, each Lender agrees to reimburse Agent promptly upon demand for its ratable share according to its Pro Rata Share of any out-of-pocket expenses (including reasonable fees of counsel) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement and each other Financing Agreement, to the extent that Agent is not reimbursed for such expenses by Credit Parties.

#### **11.7 Failure to Act**

Except for action expressly required of Agent hereunder and under the other Financing Agreements, Agent shall in all cases be fully justified in failing or refusing to act hereunder and thereunder unless it shall receive further assurances to its satisfaction from Lenders of their indemnification obligations under Section 11.6 hereof against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action or if any such action may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Insolvency Law.

#### **11.8 Concerning the Collateral and the Related Financing Agreements**

Each Lender authorizes and directs Agent to enter into this Agreement and the other Financing Agreements. Each Lender agrees that any action taken by Agent in accordance with the terms of this Agreement or the other Financing Agreements and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon Lenders.

#### **11.9 Reports and other Information; Disclaimer by Lenders.**

By signing this Agreement, each Lender:



- (a) is deemed to have requested that Agent furnish such Lender, within a reasonable time after it becomes available to Agent, a copy of each report, Compliance Certificate and/or other documentation (each such report, certificate or documentation being referred to herein as a “**Report**” and collectively, “**Reports**”) provided to Agent by Credit Parties pursuant to the Financing Agreements;
- (b) expressly agrees and acknowledges that Agent (i) does not make any representation or warranty as to the accuracy of any Report, or (ii) shall not be liable for any information contained in any Report; and
- (c) agrees to keep all Reports confidential in accordance with Section 7.11(b).

#### **11.10 Collateral Matters**

- (a) Lenders (including in its or any of its Affiliate’s capacities as a potential Hedge Bank or Cash Management Bank) hereby irrevocably authorize Agent at its option and in its discretion to release any Lien upon any of the Collateral (i) upon termination of the Commitment and payment and satisfaction of all of the non-contingent Obligations and delivery of cash collateral to the extent required under Section 2.3(a); or (ii) constituting property being sold or disposed of if such sale or disposition is permitted by this Agreement (or permitted pursuant to a waiver of or consent to a transaction otherwise prohibited by this Agreement); or (iii) constituting property in which applicable Credit Party did not own an interest at the time the Lien was granted or at any time thereafter; or (iv) if required under the terms of any of the other Financing Agreements, including any intercreditor agreement; or (v) approved, authorized or ratified in writing in accordance with Section 11.14 hereof. Lenders hereby irrevocably authorize Agent to subordinate its Lien upon the specific Collateral on which another Person has a Lien as permitted under Section 8.2 and if such Person will not permit Agent to retain its Lien on such Collateral, Lenders hereby irrevocably authorize Agent to release its Lien upon such Collateral. Except as provided above, Agent will not release any Lien upon any of the Collateral without the prior written authorization required in accordance with Section 11.14 hereof. In addition, each Lender (including in its or any of its Affiliate’s capacities as a potential Hedge Bank or Cash Management Bank) hereby irrevocably authorizes Agent at its option and in its discretion to release or terminate any Control Agreements entered into pursuant to Section 7.14(b) as contemplated by Section 7.14(c) without any further consent or action by such Lender or any of its Affiliates.
- (b) Without in any manner limiting Agent’s authority to act without any specific or further authorization or consent by applicable Lenders, each Lender, as applicable, agrees to confirm in writing, upon request by Agent, the authority to release Collateral conferred upon Agent under this Agreement. Agent shall (and is hereby irrevocably authorized by Lenders to) execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release of the Liens granted to Agent upon any Collateral or to evidence the release of such Credit Party from its Obligations under the Financing Agreements in each case in accordance with the terms of the Financing Agreements and this Section 11.10; provided, that, such release shall not in

any manner discharge, affect or impair the Obligations or any Lien upon (or obligations of any Credit Party in respect of) the Collateral retained by such Credit Party.

- (c) Except for the exercise of reasonable care in the custody of any Collateral in its possession and the accounting for moneys actually received by it hereunder, Agent shall have no obligation whatsoever to any Lender or any other Person to investigate, confirm or assure that the Collateral exists or is owned by any Credit Party or is cared for, protected or insured or has been encumbered, or that the Liens granted to Agent pursuant hereto or any of the Financing Agreements or otherwise have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent in this Agreement or in any of the other Financing Agreements, it being understood and agreed that in respect of Collateral, or any act, omission or event related thereto, Agent may act in any manner it may deem appropriate, in its discretion, given Agent's own interest in the Collateral as a Lender and that Agent shall have no duty or liability whatsoever to any other Lender.
- (d) Each Lender hereunder (i) agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement, as applicable, and (ii) authorizes and instructs Agent, to the extent required by the terms of the Financing Agreements, to enter into any Intercreditor Agreements contemplated by this Agreement as Agent on behalf of such Lender. Each Lender hereby further agrees that (i) Agent may, from time to time, without any further consent of any Lender, enter into any Intercreditor Agreement, any subordination agreement or other intercreditor agreement contemplated by this Agreement with the collateral agent or other representatives of the holders of Debt that is permitted to be secured by a Lien on the Collateral under this Agreement, in each case, in order to effect the relative priority of Liens on the Collateral and to provide for certain additional rights, obligations and limitations in respect of, any Liens permitted by the terms of this Agreement to be *pari passu* with or junior or senior to the Liens securing the Obligations with respect to part or all of the Collateral, which are, in each case, incurred in accordance with this Agreement, and to establish certain relative rights as between the holders of the Obligations and the holders of the Debt secured by such Liens, and (ii) such Intercreditor Agreements and any other subordination agreement or intercreditor agreement referred to in the foregoing clause (i) entered into by Agent shall be binding on the Secured Parties.

#### **11.11 Successor Agent and Resignation of Swingline Lender**

- (a) Agent may resign at any time by giving not less than thirty (30) days' prior written notice thereof to Lenders and Borrower. If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders and the Borrower may, to the extent permitted by Applicable Law, by notice in writing to the Borrower, the Lenders and such Person, remove such Person as Agent. Upon any such resignation or removal, Required Lenders shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by Required Lenders and shall have accepted such appointment within thirty (30) days after the resigning Agent's giving

notice of resignation or the date of the applicable notice of removal, then the resigning or removed Agent may, on behalf of Lenders, appoint a successor Agent, which shall be a Lender, if a Lender is willing to accept such appointment, or otherwise shall be a commercial bank or financial institution or a subsidiary of a commercial bank or financial institution if such commercial bank or financial institution or other entity whose business includes making commercial loans, in each case, is organized under the laws of Canada, the United States or any province or state thereof and has total assets in excess of \$1,000,000,000, or the foreign currency equivalent thereof. If no successor Agent has been appointed pursuant to the foregoing, within 30 days after the date such notice of resignation or removal was given, such resignation or removal shall become effective and Required Lenders shall thereafter perform all the duties of Agent hereunder until such time, if any, as Required Lenders appoint a successor Agent as provided above. Any successor Agent appointed by Required Lenders hereunder shall be subject to the approval of Borrower, such approval not to be unreasonably withheld or delayed; provided, that such approval shall not be required if a Payment/Insolvency Event of Default has occurred and is continuing. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning or removed Agent. Upon the earlier of the acceptance of any appointment as Agent hereunder by a successor Agent or the effective date of the resigning Agent's resignation or the removed Agent's removal (as the case may be), the resigning or removed Agent shall be discharged from its duties and obligations under this Agreement and the other Financing Agreements, except that any indemnity rights or other rights in favor of such resigning or removed Agent shall continue. After any resigning or removed Agent's resignation or removal hereunder, the provisions of this Article 11 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was acting as Agent under this Agreement and the other Financing Agreements.

- (b) Any Swingline Lender may resign at any time by giving 30 days' prior notice to Agent, Lenders and Borrower. After the resignation of a Swingline Lender hereunder, the retiring Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of a Swingline Lender under this Agreement and the other Financing Agreements with respect to Swingline Loans made by it prior to such resignation, but shall not be required to make any additional Swingline Loans.

#### **11.12 Setoff and Sharing of Payments**

In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default and subject to Section 11.13(f), each Lender and each of its respective Affiliates is hereby authorized at any time or from time to time, without notice to Borrower or to any other Person other than Agent, any such notice being hereby expressly waived, to setoff and to appropriate and to apply any and all balances held by it at any of its offices for the account of any Credit Party (regardless of whether such balances are then due to any Credit Party) and any other properties or assets (other than deposits in fiduciary accounts as to which a Credit Party is acting as fiduciary for another Person who is not a Credit Party and other than payroll or trust fund accounts) at any time held or owing by that Lender or any such Affiliates to or for the credit or for the account of any Credit Party against and on account of any of the Obligations that are

not paid when due; provided, that Lenders and their respective Affiliates exercising such setoff rights shall give notice thereof to such Credit Party promptly after exercising such rights; provided further that in the event that any Defaulting Lender or any Affiliate thereof shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 3.8 and, pending such payment, shall be segregated by such Defaulting Lender or Affiliate of a Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agent, the Issuing Lender, the Swingline Lender and the Lenders, and (y) the Defaulting Lender or its Affiliate shall provide promptly to the Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender or any of its Affiliates as to which such right of setoff was exercised. Except in the case of (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), or (B) the application of cash collateral provided for herein, any Lender or any of its Affiliates exercising a right of setoff or otherwise receiving any payment on account of the Obligations in excess of its Pro Rata Share thereof shall purchase for cash (and the other Lenders shall sell) such participations in each such other Lender's Pro Rata Share of the Obligations as would be necessary to cause such Lender to share the amount so setoff or otherwise received with the other Lenders in accordance with their respective Pro Rata Shares. Each Credit Party agrees, to the fullest extent permitted by law that (a) any Lender may exercise its right to setoff with respect to amounts in excess of its Pro Rata Share of the Obligations and may sell participations in such amounts so setoff to the other Lenders; and (b) any Lender so purchasing a participation in a Loan made or other Obligations held by the other Lenders may exercise all rights of setoff, bankers' lien, counterclaim or similar rights with respect to such participation as fully as if such Lender was a direct holder of the Loan and the other Obligations in the amount of such participation. Notwithstanding the foregoing, if all or any portion of the setoff amount or payment otherwise received is thereafter recovered from a Lender or any of its Affiliates that have exercised the right of setoff, the purchase of participations by that Lender shall be rescinded and the purchase price restored without interest.

### **11.13 Advances; Payments; Information; Actions in Concert**

(a) Advances; Payments.

- (i) In each funding notice provided by Agent to a Lender hereunder, Agent shall provide such Lender with written confirmation (by telephone, telecopy or email (if such Lender has provided email notice coordinates to Agent)) that all conditions precedent hereunder to such funding have been satisfied or waived in accordance with the terms hereof.
- (ii) Each Lender shall make the amount of such Lender's Pro Rata Share of such Loan available to Agent in same day funds by wire transfer to Agent's account not later than 12:00 noon (New York time) (or promptly thereafter) on the requested funding date (which must be a Business Day). Swingline Lender shall make the amount of the requested Swingline Loan available to Agent in same day funds by wire transfer to Agent's account not later than 12:00 noon (New York time) (or promptly thereafter) on the requested funding date (which must be a Business Day). After receipt of such wire transfers (or, in Agent's sole discretion, before receipt of such wire transfers), subject to the terms hereof, Agent shall make the requested Loan to Borrower. All payments by each Lender shall be made without

setoff, counterclaim or deduction of any kind. Revolving Loans to be made for the purpose of refunding Swingline Loans shall be made by Revolving Lenders as provided in Section 2.1(c).

(iii) On the fifth (5<sup>th</sup>) Business Day of each Fiscal Quarter or more frequently at Agent's election (each, a "**Settlement Date**"), Agent shall advise each Lender by telephone, telecopy or email (if such Lender has provided email notice coordinates to Agent) of the amount of such Lender's Pro Rata Share of principal, interest and fees paid for the benefit of Lenders with respect to each applicable Loan. Provided that each Lender has funded all payments and Loans required to be made by it and purchased all participations required to be purchased by it under this Agreement and the other Financing Agreements as of such Settlement Date, Agent shall pay to each Lender such Lender's Pro Rata Share of principal, interest and fees paid by Borrower since the previous Settlement Date for the benefit of such Lender on the portion of the Loans held by it. Notwithstanding the foregoing, if there exists a Defaulting Lender each payment by the Borrower to such Defaulting Lender hereunder shall be applied in accordance with Section 3.8(a)(i). Such payments shall be made by wire transfer to such Lender's account not later than 2:00 p.m. (New York time) on the next Business Day following each Settlement Date. Each payment to Agent on account of the principal of or interest on the Swingline Loans or of any fee, commission or other amounts payable to Swingline Lender shall be made in like manner, but for the account of Swingline Lender.

(b) Availability of Lender's Pro Rata Share. Agent may assume that each Lender will make its Pro Rata Share of each Loan available to Agent on each funding date (which must be a Business Day). If such Pro Rata Share is not, in fact, paid to Agent by such Lender when due, Agent will be entitled to recover such amount on demand from such Lender without setoff, counterclaim or deduction of any kind. If any Lender fails to pay the amount of its Pro Rata Share forthwith upon Agent's demand, Agent shall promptly notify Borrower and Borrower shall immediately repay such amount to Agent. Nothing in this Section 11.13(b) or elsewhere in this Agreement or the other Financing Agreements shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitment hereunder or to prejudice any rights that a Credit Party may have against any Lender as a result of any default by such Lender hereunder. To the extent that Agent advances funds to Borrower on behalf of any Lender and is not reimbursed therefore on the same Business Day as such Loan is made, Agent shall be entitled to retain for its account all interest accrued on such advance until reimbursed by the applicable Lender.

(c) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from Borrower and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

- (ii) If Agent determines at any time that any amount received by Agent under this Agreement must be returned to Borrower or paid to any other Person pursuant to any Insolvency Law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Financing Agreement, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to Borrower or such other Person, without setoff, counterclaim or deduction of any kind.
- (d) [Reserved].
- (e) Dissemination of Information. Agent shall use reasonable efforts to provide Lenders with (i) any notice of any Event of Default received by Agent from, or delivered by Agent to, Borrower, (ii) notice of any Event of Default of which Agent has actually become aware, (iii) notice of any action taken by Agent following any Event of Default and (iv) any notice received from any Credit Party pursuant to Section 7.6(b); provided, that Agent shall not be liable to any Lender for any failure to do so, except to the extent that such failure is attributable to Agent's gross negligence or willful misconduct as determined by a final and non-appealable judgment or court order binding on Agent from a court of competent jurisdiction.
- (f) Actions in Concert. Anything in this Agreement to the contrary notwithstanding, each Lender hereby agrees with Agent and each other Lender that no Lender shall take any action to protect or enforce its rights arising out of this Agreement or the other Financing Agreements (excluding exercising any rights of setoff) without first obtaining the prior written consent of Agent and all other Lenders, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the other Financing Agreements shall be taken in concert and at the direction or with the consent of Agent, all Lenders, affected Lenders or Required Lenders, as the case may be.

#### **11.14 Approval of Lenders and Agent**

- (a) Notwithstanding any other provision of this Agreement but subject to Section 11.14(b), (c), (d) and (f), no amendment or waiver of any provision of this Agreement, nor consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by Credit Parties and the Required Lenders, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given;
  - (i) provided that no amendment, waiver or consent shall, unless in writing and signed by all Lenders directly and adversely affected thereby (other than a Defaulting Lender) do any of the following at any time:
    - (A) reduce the rate or amount of any principal, interest or fees payable by Borrower or alter the currency or mode of calculation or computation thereof;

- (B) extend the time for payments required to be made by Borrower or the Maturity Date;
  - (C) increase any Lender's Commitment;
  - (D) change the definition of Required Lenders, any provision of this Section 11.14, amend the *pro rata* sharing provisions hereunder or amend the voting percentages hereunder; or
  - (E) change the payment waterfall in Section 5.3(b) hereof;
- (ii) provided further that no amendment, waiver or consent shall, unless in writing and signed by all Lenders (other than a Defaulting Lender) do any of the following at any time:
- (A) release or subordinate all or substantially all of (x) the value of the Collateral under any Financing Agreement or (y) the Obligations or the guarantees of the Obligations; and
  - (B) permit any Credit Party to assign its rights under the Financing Agreements.
- (b) Notwithstanding Section 11.14(a), (i) Agent may, without the consent of Lenders, (A) make amendments to the Financing Agreements that are for the sole purpose of curing any immaterial or administrative ambiguity, omission, defect or inconsistency, (B) enter into amendments or modifications to this Agreement or any other Financing Agreement or enter into additional Financing Agreements as Agent reasonably deems appropriate in order to implement any Benchmark Replacement, any Conforming Changes or otherwise effectuate the terms of Section 3.2(c) in accordance with the terms of Section 3.2(c), (C) amend any provision of any other Financing Agreement to better implement the intentions of this Agreement and the other Financing Agreements, in each case, such amendments shall become effective without any further action or consent of any other party to any Financing Agreement if the same is not objected to in writing by Required Lenders within five (5) Business Days following receipt of notice thereof and (D) enter into amendments or modifications to this Agreement or any other Financing Agreement or enter into additional Financing Agreements as Agent reasonably deems appropriate in order to implement any provisions related to Incremental Term Loans or otherwise effectuate the terms of Section 2.6 with respect to the establishment of any Incremental Term Loan Commitments. Agent shall promptly notify Lenders of any such action and (ii) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.
- (c) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Agent in addition to Lenders required above to take such action, affect the rights or duties of Agent under this Agreement or any of the other Financing Agreements.

- (d) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Issuing Lender in addition to Lenders required above to take such action, affect the rights or duties of Issuing Lender under this Agreement or any of the other Financing Agreements.
- (e) No Cash Management Bank or Hedge Bank that obtains the benefits of Section 5.3 or any Collateral by virtue of the provisions hereof or of any Financing Agreement shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Financing Agreement or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Financing Agreements. Notwithstanding any other provision of this Article 11 to the contrary, Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Hedge Agreements and Secured Cash Management Agreements.
- (f) Notwithstanding Section 11.14(a), no amendment, waiver or consent shall, unless in writing and signed by Swingline Lender in addition to Lenders required above to take such action, affect the rights or duties of Swingline Lender under this Agreement or any of the other Financing Agreements.

### **11.15 Erroneous Payments**

- (a) Each Lender and the Issuing Lender hereby agrees that (i) if the Agent notifies such Lender or Issuing Lender that the Agent has determined in its sole discretion that any funds received by such Lender or Issuing Lender from the Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Lender or Issuing Lender (whether or not known to such Lender or Issuing Lender) (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Lender or Issuing Lender shall promptly, but in no event later than one Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Lender to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect and (ii) to the extent permitted by applicable law, such Lender or Issuing Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. A notice of the Agent to any Lender or Issuing Lender under this clause (a) shall be conclusive, absent manifest error.



- (b) Without limiting immediately preceding clause (a), each Lender and the Issuing Lender hereby further agrees that if it receives an Erroneous Payment from the Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Agent (or any of its Affiliates) with respect to such Erroneous Payment (an “**Erroneous Payment Notice**”), (y) that was not preceded or accompanied by an Erroneous Payment Notice, or (z) that such Lender or Issuing Lender otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case, an error has been made (and that it is deemed to have knowledge of such error at the time of receipt of such Erroneous Payment) with respect to such Erroneous Payment, and to the extent permitted by applicable law, such Lender or Issuing Lender shall not assert any right or claim to the Erroneous Payment, and hereby waives, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payments received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine. Each Lender and the Issuing Lender agrees that, in each such case, it shall promptly (and, in all events, within one Business Day of its knowledge (or deemed knowledge) of such error) notify the Agent of such occurrence and, upon demand from the Agent, it shall promptly, but in all events no later than one Business Day thereafter, return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender or Issuing Lender to the date such amount is repaid to the Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect.
- (c) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Agent from the Borrower or any other Credit Party for the purpose of making such Erroneous Payment.
- (d) Each party’s obligations under this Section 11.15 shall survive the resignation or replacement of the Agent or any transfer of right or obligations by, or the replacement of, a Lender, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Financing Agreement.

### **11.16 Rates.**

The Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the CDOR Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR, the Eurocurrency Rate, the Adjusted Eurocurrency Rate or any other Benchmark, or any component definition thereof or rates referred to in the definition thereof, or with respect to any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it

may or may not be adjusted pursuant to Section 3.2(c), will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the CDOR Rate, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR, the Eurocurrency Rate, the Adjusted Eurocurrency Rate, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to the Borrower. The Agent may select information sources or services in its reasonable discretion to ascertain any Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

## **ARTICLE 12**

### **GOVERNING LAW; JURISDICTION, ETC.**

#### **12.1 Governing Law; Jurisdiction, Etc.**

- (a) Governing Law. This Agreement and the other Financing Agreements and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Financing Agreements (except, as to any other Financing Agreements, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York.
- (b) Submission to Jurisdiction. Each party hereto irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against any other party hereto relating to this Agreement or any other Financing Agreement or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Financing Agreement shall affect any right that Agent, any Lender, or Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Financing Agreement against Borrower or any other Credit Party or their respective properties in the courts of any jurisdiction where the Collateral is located or in any jurisdiction of organization of such Credit Party.

- (c) Waiver of Venue. Borrower and each other Credit Party irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Financing Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.
- (d) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 13.2. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Applicable Law.
- (e) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER FINANCING AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER FINANCING AGREEMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION.
- (f) Waiver of Consequential Damages. Each Credit Party hereby waives any claims for special, punitive, exemplary, indirect or consequential damages in respect of any breach or alleged breach by Agent or any Lender of any of the terms of this Agreement or the other Financing Agreements except in the case of gross negligence or willful misconduct of Agent or any Lender as determined by a final and non-appealable judgment or court order binding on Agent or Lender from a court of competent jurisdiction.
- (g) Waiver of Notice. Each Credit Party waives the posting of any bond otherwise required of Agent in connection with any judicial process or proceeding to obtain possession of, replevy, attach or levy upon the Collateral or other security for the Obligations, to enforce any judgment or other court order entered in favor of Agent, or to enforce by specific performance, temporary restraining order, preliminary or permanent injunction or any other Financing Agreement.

## **12.2 Waiver of Notices**

Each Credit Party hereby expressly waives demand, presentment, protest and notice of protest and notice of dishonor with respect to any and all instruments and commercial paper, included in or evidencing any of the Obligations or the Collateral, and any and all other demands and notices of any kind or nature

whatsoever with respect to the Obligations, the Collateral and this Agreement, except such as are expressly provided for herein. No notice to or demand on any Credit Party which Agent may elect to give shall entitle any Credit Party to any other or further notice or demand in the same, similar or other circumstances.

### **12.3 Amendments and Waivers**

Subject to Section 11.14, neither this Agreement nor any provision hereof shall be amended or waived, nor consent to any departure by any Credit Party therefrom permitted, orally or by course of conduct, but only by a written agreement signed by an authorized officer of each applicable Lender (if any) and Agent, and as to amendments, as also signed by an authorized officer of each Credit Party. Agent shall not, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of Agent. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by Agent of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which Agent would otherwise have on any future occasion, whether similar in kind or otherwise.

### **12.4 Waiver of Counterclaim**

Each Credit Party waives all rights to interpose any claims, deductions, setoffs or counterclaims of any nature (other than compulsory counterclaims) in any action or proceeding with respect to this Agreement, the Obligations, the Collateral or any matter arising therefrom or relating hereto or thereto.

### **12.5 Indemnification**

Each Credit Party shall indemnify and hold Arranger, Agent, Issuing Lender and each Lender, and their respective directors, officers, agents, representatives, employees and counsel (each such Person, an “**Indemnitee**”), harmless from and against any and all losses, claims, damages, liabilities, costs or expenses imposed on, incurred by or asserted against any of them in connection with any litigation, investigation, claim or proceeding commenced or threatened related to (x) the negotiation, preparation, execution, delivery, enforcement, performance or administration of any Financing Agreements, or any undertaking or proceeding related to any of the transactions contemplated hereby or any act, omission, event or transaction related or attendant thereto or the relationship between any Credit Party, on one hand, and an Indemnitee, on the other hand or (y) any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned or operated by any Credit Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Credit Party or any of its Subsidiaries, including amounts paid in settlement, court costs, and the fees, expenses and disbursements of counsel and others incurred in connection with investigating, preparing to defend or defending any such litigation, investigation, claim or proceeding (but limited, in the case of such fees, expenses and disbursements of counsel, to the reasonable, documented and invoiced fees, expenses and disbursements of one primary counsel for all Indemnitees, taken as a whole, and, if reasonably necessary, a single outside local and a single outside specialty counsel in each other jurisdiction material to the interests of all Indemnitees taken as a whole for all Indemnitees taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs Borrower of such conflict, one additional primary counsel for all Indemnitees subject to such conflict taken as a whole)). Such indemnification described in clauses (x) and (y) above shall not apply to losses, claims, damages,

liabilities, costs or expenses (i) resulting from the bad faith, fraud, gross negligence or willful misconduct of an Indemnitee as determined pursuant to a final non-appealable order of a court of competent jurisdiction, (ii) relating to disputes among Indemnitees that does not involve an act or omission by Credit Parties, (iii) resulting from a material breach of an Indemnitee's obligations to a Credit Party hereunder as determined pursuant to a final non-appealable order of a court of competent jurisdiction or (iv) resulting from settlements of any such litigation, investigation, claim or proceeding effected by the Indemnitees without the prior written consent of Borrower (which consent shall not be unreasonably withheld, delayed or conditioned); provided that if such claim or action is settled with the Borrower's written consent or if there is a final judgement by a court of competent jurisdiction in any such actions, the Borrower agrees to indemnify and hold harmless each Indemnitee from and against any and all losses, claims, damages, liabilities and expenses by reason of such settlement or judgment in accordance with this Section; provided that any indemnification obligations owed by Credit Parties hereunder and not otherwise related to the foregoing settlement shall nonetheless remain an obligation of Credit Parties. To the extent that the undertaking to indemnify, pay and hold harmless set forth in this Section 12.5 may be unenforceable because it violates any Applicable Law, each Credit Party shall pay the maximum portion which it is permitted to pay under Applicable Law to each Indemnitee in satisfaction of indemnified matters under this Section 12.5. This Section 12.5 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim. The foregoing indemnity shall survive the payment of the Obligations and the termination of this Agreement.

## **12.6 Costs and Expenses**

Upon demand by Agent, each Credit Party agrees within ten (10) days of receipt of a reasonably detailed written invoice therefor (or such longer period as Agent may agree), to pay to Arranger, Agent, Issuing Lender and Lenders all reasonable out-of-pocket costs, expenses and filing fees paid or payable in connection with the structuring, arrangement, syndication, preparation, negotiation, execution, delivery, recording, administration, collection, liquidation, restructuring, enforcement and defense of the Obligations, Agent's and each Lender's rights in the Collateral, the Financing Agreements and all other documents related hereto or thereto, including any amendments, supplements or consents which may hereafter be contemplated (whether or not executed) or entered into in respect hereof and thereof, including: (a) all costs and expenses of filing or recording or searching (including PPSA and UCC financing statement and other similar filing and recording fees, if applicable); (b) reasonable out-of-pocket costs and expenses of remitting loan proceeds and other items of payment, together with Agent's customary, reasonable out-of-pocket charges and fees with respect thereto; (c) reasonable out-of-pocket costs and expenses of preserving and protecting the Collateral; (d) reasonable out-of-pocket costs and expenses paid or incurred in connection with obtaining payment of the Obligations, enforcing the security interests and liens of Agent, selling or otherwise realizing upon the Collateral, and otherwise enforcing the provisions of the Financing Agreements or defending any claims made or threatened against Agent and Lenders arising out of the transactions contemplated hereby and thereby (including preparations for and consultations concerning any such matters); (e) all reasonable out-of-pocket expenses including due diligence, negotiation, arrangement, syndication, restructuring, administration and amending of this Agreement; and (f) the fees, expenses and disbursements of counsel (including legal assistants) to Arranger, Agent, Issuing Lender, and Lenders in connection with any of the foregoing (but limited, in the case of such fees, expenses and disbursements of counsel, to the reasonable, documented and invoiced fees, expenses and disbursements of one primary counsel for Arranger, Agent, Issuing Lender and Lenders, taken as a whole (and, if reasonably determined by Agent to be necessary, a single outside local and a single outside special counsel in each jurisdiction material to the interests of

all such Persons taken as a whole for all such Persons taken as a whole and, in the case of an actual or perceived conflict of interest where such Person affected by such conflict informs Borrower of such conflict, one additional primary counsel for all such Persons subject to such conflict taken as a whole)) and counsel otherwise retained with Borrower's consent (which consent shall not be unreasonably withheld or delayed).

## **12.7 Further Assurances**

At the reasonable request of Agent at any time and from time to time, each Credit Party shall, at its expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be necessary to evidence, perfect, maintain and enforce the Liens and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of any of the Financing Agreements. Where permitted by law, each Credit Party hereby authorizes Agent to execute and file one or more PPSA, UCC or other financing statements or notices signed only by Agent or Agent's representative.

## **ARTICLE 13 MISCELLANEOUS**

### **13.1 Notice**

All notices, requests and demands hereunder shall be in writing and made to Agent and Lenders at their respective addresses set forth below and to Borrower (on behalf of itself and each other Credit Party) at its chief executive office set forth below, or to such other address as any party may designate by written notice to the other in accordance with this provision.

If to the Borrower:

IMAX Corporation  
2525 Speakman Drive  
Mississauga, Ontario  
L5K 1B1, Canada  
Attention of: Natasha Fernandes  
Telephone No.: (905) 403-6457  
Email: NFernandes@imax.com

If to Wells Fargo, as Administrative Agent:

Wells Fargo Bank, National Association  
MAC D1109-019  
1525 West W.T. Harris Blvd.  
Charlotte, NC 28262  
Attention of: Syndication Agency Services  
Telephone No.: (704) 590-2706  
Facsimile No.: (844) 879-5899  
Email: Agencyservices.requests@wellsfargo.com

With copies to:

Wells Fargo Commercial Banking  
MAC E2019-041  
350 West Colorado Blvd, 4th Floor  
Pasadena, CA 91105  
Attention of: Patrick M. Drum  
Telephone No.: 310-270-8002  
Facsimile No.: 855-729-3712  
E-mail: Patrick.M.Drum@wellsfargo.com

If to any Lender:

To the address of such Lender set forth on the Register with respect to deliveries of notices and other documentation that may contain material non-public information.

Notices shall be deemed to have been given or made: if delivered in person, immediately upon delivery; if by email or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with instructions to deliver the next Business Day, one (1) Business Day after sending; and if by registered mail, return receipt requested, five (5) days after mailing.

### **13.2 Partial Invalidity**

If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate this Agreement as a whole, but this Agreement shall be construed as though it did not contain the particular provision held to be invalid or unenforceable and the rights and obligations of the parties shall be construed and enforced only to such extent as shall be permitted by Applicable Law.

### **13.3 Successors**

The Financing Agreements and any other document referred to herein or therein shall be binding upon and inure to the benefit of and be enforceable by Agent, Lenders and each Credit Party and their respective successors and permitted assigns.

### **13.4 Entire Agreement**

The Financing Agreements, any supplements hereto or thereto, and any instruments or documents delivered or to be delivered in connection herewith or therewith represents the entire agreement and understanding concerning the subject matter hereof and thereof between the parties hereto, and supersede all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written. In the event of any inconsistency between the terms of this Agreement and any schedule or exhibit hereto, the terms of this Agreement shall govern.

### 13.5 Headings

The division of this Agreement into sections and the insertion of headings and a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### 13.6 Judgment Currency

To the extent permitted by Applicable Law, the obligations of Borrower in respect of any amount due under this Agreement shall, notwithstanding any payment in any other currency (the “**Other Currency**”) (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the currency in which it is due (the “**Agreed Currency**”) that Agent may, in accordance with normal banking procedures, purchase with the sum paid in the Other Currency (after any premium and costs of exchange) on the Business Day immediately after the day on which Agent receives the payment. If the amount in the Agreed Currency that may be so purchased for any reason falls short of the amount originally due, Borrower shall pay all additional amounts, in the Agreed Currency, as may be necessary to compensate for the shortfall. Any obligation of Borrower not discharged by that payment shall, to the extent permitted by Applicable Law, be due as a separate and independent obligation and, until discharged as provided in this section, continue in full force and effect.

### 13.7 Counterparts and Facsimile; Electronic Execution

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement. The delivery of a facsimile or pdf copy of an executed counterpart of this Agreement shall be deemed to be valid execution and delivery of this Agreement, but the party delivering a facsimile or pdf copy shall deliver to the other party an original copy of this Agreement as soon as possible after delivering the facsimile or pdf copy.

The words “execute,” “execution,” “signed,” “signature,” “delivery” and words of like import in or related to this Agreement, any other Financing Agreement or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Agreement or any other Financing Agreement or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Agent, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into pdf format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Agent pursuant to procedures approved by



it; provided that, without limiting the foregoing, (a) to the extent the Agent has agreed to accept such Electronic Signature from any party hereto, the Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the executing party without further verification and (b) upon the request of the Agent or any Lender, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (i) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Agent, the Lenders and any of the Credit Parties, electronic images of this Agreement or any other Financing Agreement (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (ii) waives any argument, defense or right to contest the validity or enforceability of the Financing Agreements based solely on the lack of paper original copies of any Financing Agreements, including with respect to any signature pages thereto.

### **13.8Patriot Act Notice**

Agent and each Lender which is subject to the *Patriot Act* or any other Anti-Money Laundering Laws hereby notifies each Credit Party that pursuant to the requirements of the *Patriot Act* or such other Anti-Money Laundering Laws, it is required to obtain, verify and record information that identifies each person or corporation who opens an account and/or enters into a business relationship with it, which information includes the name and address of each Credit Party and its Subsidiaries and other information that will allow Agent and such Lender to identify such person in accordance with the *Patriot Act* and any other Applicable Law. Each Credit Party is hereby advised that any Loans or Letter of Credit Accommodations hereunder are subject to satisfactory results of such verification.

### **13.9Acknowledgement and Consent to Bail-In of Affected Financial Institutions.**

Notwithstanding anything to the contrary in any Financing Agreement or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Financing Agreement, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Financing Agreement; or

- (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

### 13.10 Acknowledgement Regarding Any Supported QFCs.

To the extent that the Financing Agreements provide support, through a guarantee or otherwise, for Hedge Agreements or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**” and, each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the FDIC under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Financing Agreements and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Financing Agreements that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Financing Agreements were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(c) As used in this Section 13.10, the following terms have the following meanings:

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Covered Entity**” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

**13.11 Divisions.** For all purposes under the Financing Agreements, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

**13.12 Certain ERISA Matters.**

- (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:
  - (i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations or the Commitments or this Agreement;
  - (ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement;
  - (iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14

and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement; or

- (iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lender.
- (b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent, the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that none of the Agent, the Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letter of Credit Accommodations, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Financing Agreement or any documents related hereto or thereto).

**ARTICLE 14**  
**ACKNOWLEDGMENT AND RESTATEMENT**

14.1[Reserved].

**14.2 Acknowledgment of Security Interests**

- (a) Borrower hereby acknowledges, confirms and agrees that Agent, on behalf of itself and Secured Parties, shall continue to have a Lien upon the Collateral heretofore granted to Original Lender and Original Agent pursuant to and in connection with the Original Loan Agreement, the First Amended and Restated Credit Agreement, the Second Amended and Restated Credit Agreement, the Third Amended and Restated Credit Agreement, the Fourth Amended and Restated Credit Agreement and the Fifth Amended and Restated Credit Agreement, as the case may be, to secure the Obligations, as well as any Collateral granted under or in connection with this Agreement or under any of the other Financing Agreements or otherwise granted to or held by Agent, any Lender, Original Lender, Original Agent, any Secured Party or any of their respective Affiliates.
- (b) The Liens of Agent, on behalf of itself and Secured Parties, in the Collateral shall be deemed to be continuously granted and perfected from the earliest date of the granting and perfection of such Liens to Original Lender, Original Agent or Agent under the Financing Agreements or any Secured Hedge Agreements.
- (c) Notwithstanding any term of any Financing Agreement, Borrower acknowledges, confirms and agrees that all security granted by it under, or in connection with, the

Original Loan Agreement, the First Amended and Restated Credit Agreement, the Second Amended and Restated Credit Agreement, the Third Amended and Restated Credit Agreement, the Fourth Amended and Restated Credit Agreement, the Fifth Amended and Restated Credit Agreement and the other Financing Agreements shall be held by Agent, on behalf of itself and Secured Parties (including those under Secured Hedge Agreements and Secured Cash Management Agreements), to secure the Obligations (including those arising under the Secured Hedge Agreements and Secured Cash Management Agreements).

14.3[Reserved].

#### 14.4Restatement

- (a) Except as otherwise stated in Section 14.2 hereof and this Section 14.4, as of the Restatement Effective Date, the terms, conditions, agreements, covenants, representations and warranties set forth in the Fifth Amended and Restated Credit Agreement are simultaneously amended and restated in their entirety, and as so amended and restated, replaced and superseded by the terms, conditions, agreements, covenants, representations and warranties set forth in this Agreement and the other Financing Agreements executed and/or delivered on or after the Restatement Effective Date, except that nothing herein or in the other Financing Agreements shall impair or adversely affect the continuation of the liability of Borrower for the Obligations heretofore incurred and the Liens and other interests in the Collateral heretofore granted, pledged and/or assigned by Borrower to Agent, Original Lender, Original Agent, any Lender, any Secured Party or any of their respective Affiliates (whether directly, indirectly or otherwise).
- (b) The amendment and restatement contained herein shall not, in any manner, be construed to constitute a novation or payment of (other than any actual repayment of outstanding amounts), or impair, limit, cancel or extinguish, or constitute a novation in respect of, the Obligations and other obligations, liabilities and indebtedness of Borrower evidenced by or arising under the Fifth Amended and Restated Credit Agreement, and the Liens of Agent, on behalf of itself and Secured Parties, securing such Obligations and other obligations, liabilities and indebtedness, which shall not in any manner be impaired, limited, terminated, waived or released, but shall continue in full force and effect in favor of Agent, for the benefit of itself and Secured Parties.
- (c) All loans, advances and other financial accommodations under the Fifth Amended and Restated Credit Agreement and all other obligations, liabilities and indebtedness of Borrower outstanding and unpaid as of the Restatement Effective Date pursuant to the Fifth Amended and Restated Credit Agreement or otherwise shall be deemed Obligations of Borrower pursuant to the terms hereof (other than any actual repayment of outstanding amounts). On the Restatement Effective Date, the credit facilities described in the Fifth Amended and Restated Credit Agreement, shall be amended, supplemented, modified and restated in their entirety by the facilities described herein, and all loans and other obligations of the Borrower outstanding as of such date under the Fifth Amended and Restated Credit Agreement, shall be deemed to be loans and obligations outstanding under the corresponding facilities described herein, without any further action by any

Person, except that the Agent shall make such transfers of funds as are necessary in order that the outstanding balance of such Loans, together with any Loans funded on the Restatement Effective Date, reflect the respective Revolving Loan Commitment of the Lenders hereunder. For the avoidance of doubt, all accrued and unpaid interest on all Loans outstanding under the Fifth Amended and Restated Credit Agreement shall be paid on the Restatement Effective Date and all outstanding “Euro Dollar Rate Loans” (as defined in the Fifth Amended and Restated Credit Agreement) shall automatically be converted to Term SOFR Loans on the Restatement Effective Date.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Agreement as of the date first above written.

BORROWER:

**IMAX CORPORATION**

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Chief Legal Officer and Senior  
Executive Vice President

By: /s/ Joseph Sparacio  
Name: Joseph Sparacio  
Title: Interim Chief Financial Officer

GUARANTOR:

**IMAX U.S.A. INC.**

By: /s/ Kenneth Weissman  
Name: Kenneth Weissman  
Title: President and Secretary

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Vice President

GUARANTOR:

**1329507 ONTARIO INC.**

By: /s/ Kenneth Weissman  
Name: Kenneth Weissman  
Title: Secretary

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Vice President

GUARANTOR:

**IMAX POST/DKP INC.**

By: /s/ Kenneth Weissman  
Name: Kenneth Weissman  
Title: President and Secretary

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Vice President

GUARANTOR:

**IMAX II U.S.A. INC.**

By: /s/ Kenneth Weissman  
Name: Kenneth Weissman  
Title: President and Secretary

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Vice President

GUARANTOR:

**IMAX THEATRES INTERNATIONAL LIMITED**

By: /s/ Alan Nishida  
Name: Alan Nishida  
Title: Director

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Director

IMAX Corporation  
Sixth Amended and Restated Credit Agreement  
Signature Page

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**IMAX (BARBADOS) HOLDING, INC.**

By: /s/ Kenneth Weissman  
Name: Kenneth Weissman  
Title: Director

Before me: /s/ James Skinner  
Notary Public

By: /s/ Robert D. Lister  
Name: Robert Lister  
Title: Vice President

Before me: /s/ Sandra M. Ennis  
Notary Public

IMAX Corporation  
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**WELLS FARGO BANK, NATIONAL ASSOCIATION**, as Agent,  
Swingline Lender, Issuing Lender and a Lender

By: /s/ Patrick M. Drum  
Name: Patrick M. Drum  
Title: Senior Vice President

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**HSBC BANK CANADA, as a Lender**

By: /s/ Jesse MacMasters

Name: Jesse MacMasters

Title: Head of Large Corporate Banking, ON &  
Atlantic

By: /s/ Nicholas Schlotter

Name: Nicholas Schlotter

Title: Director, Large Corporate Banking

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**NATIONAL BANK OF CANADA**, as a Lender

By: /s/ Suneel Puri \_\_\_\_\_

Name: Suneel Puri

Title: Director & Head, Execution

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By: /s/ Jeffrey Coleman

Name: Jeffrey Coleman

Title: Executive Director

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**BANK OF AMERICA, N.A., as a Lender**

By: /s/ Jana L. Baker

Name: Jana L. Baker

Title: Senior Vice President

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# IMAX CORPORATION

## Exhibit 31.1

### Certification Pursuant to Section 302 of the Sarbanes - Oxley Act of 2002

I, Richard L. Gelfond, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of the registrant, IMAX Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 28, 2022

By: /s/ Richard L. Gelfond  
Name: Richard L. Gelfond  
Title: Chief Executive Officer

# IMAX CORPORATION

## Exhibit 31.2

### Certification Pursuant to Section 302 of the Sarbanes - Oxley Act of 2002

I, Joseph Sparacio, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 of the registrant, IMAX Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 28, 2022

By: /s/ Joseph Sparacio  
Name: Joseph Sparacio  
Title: Interim Chief Financial Officer

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# IMAX CORPORATION

## Exhibit 32.1

### CERTIFICATIONS

**Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002  
(Subsections (A) and (B) of Section 1350, Chapter 63 of Title 18, United States Code)**

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), I, Richard L. Gelfond, Chief Executive Officer & Director of IMAX Corporation, a Canadian corporation (the "Company"), hereby certify, to my knowledge, that:

The Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 (the "Form 10-Q") of the Company fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 28, 2022

By: /s/ Richard L. Gelfond  
Name: Richard L. Gelfond  
Title: Chief Executive Officer

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# IMAX CORPORATION

## Exhibit 32.2

### CERTIFICATIONS

**Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002  
(Subsections (A) and (B) of Section 1350, Chapter 63 of Title 18, United States Code)**

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), I, Joseph Sparacio, Interim Chief Financial Officer of IMAX Corporation, a Canadian corporation (the "Company"), hereby certify, to my knowledge, that:

The Quarterly Report on Form 10-Q for the quarter ended March 31, 2022 (the "Form 10-Q") of the Company fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, and information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: April 28, 2022

By: /s/ Joseph Sparacio  
Name: Joseph Sparacio  
Title: Interim Chief Financial Officer

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